



Case Number:	Criminal Appeal 129 of 2001
Date Delivered:	07 Dec 2001
Case Class:	Criminal
Court:	Court of Appeal at Nairobi
Case Action:	Judgment
Judge:	Johnson Evan Gicheru, Abdulrasul Ahmed Lakha, Moijo Matayia Ole Keiwua
Citation:	Antony Chege Kibathi v Republic [2001] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Criminal
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	H.C.CR.A. No. 889 of 2001
Case Outcome:	Appeal Dismissed
History County:	Nairobi
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
<p>The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.</p>	

IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: GICHERU, LAKHA & KEIWUA, JJ.A.)
CRIMINAL APPEAL NO. 129 OF 2001

BETWEEN

ANTONY CHEGE KIBATHI APPELLANT

AND

REPUBLIC RESPONDENT

(Appeal from a Judgment of the High Court of Kenya at Nairobi
(Justice Etyang) dated 31st August, 2001

in

H.C.CR.A. NO. 889 OF 2001)

JUDGMENT OF THE COURT

ANTHONY CHEGE KIBATHI, the appellant in this appeal; was convicted by the Resident Magistrate Shem Kebong'o sitting at Gatundu of the offence of grievous harm contrary to ***Section 234 of the Penal Code*** and was sentenced to serve three years' imprisonment. His appeal against this conviction and sentence to the superior court resulted in that conviction being quashed and substituted by a conviction for the offence of assault causing actual bodily harm contrary to ***section 251 of the Penal Code***. The sentence was also set aside and substituted with one of eighteen months' imprisonment from the date of his conviction. He has now appealed to this Court against that decision.

The main ground of objection raised on his behalf in this appeal was that if the evidence in the case was properly assessed, there was no evidence at all to support the conviction. In support of this view, it was submitted, that the charge had not been proved beyond reasonable doubt and that on first appeal, the superior court itself felt so doubtful that it quashed the conviction of the offence with which the appellant was convicted.

As regards this ground which we agree raised a matter of law properly for decision by this Court, namely, in the submission that the finding in fact has no evidence to support it, we have come to the conclusion that there is evidence on record capable of being taken into consideration to sustain the charge.

There was overwhelming evidence of P.W.1., P.W.4 and P.W.5. who testified that upon their arrival at the scene, they found the appellant armed with a metal bar and still hitting the complainant.

We certainly cannot hold that there was no evidence of this fact and that being so, we must dismiss this appeal and it is dismissed accordingly.

Dated and delivered at Nairobi this 7th day of December, 2001.

J.E. GICHERU

.....

JUDGE OF APPEAL

A.A. LAKHA

.....

JUDGE OF APPEAL

M. KEIWUA

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)