



REPUBLIC OF KENYA



KENYA LAW
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**Rop v Republic (Criminal Appeal E024 of 2021)
[2024] KEHC 7697 (KLR) (25 June 2024) (Judgment)**

Neutral citation: [2024] KEHC 7697 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL APPEAL E024 OF 2021**

**JR KARANJA, J
JUNE 25, 2024**

BETWEEN

JAPHET KIMUTAI ROP APPLICANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. Appeal considered in the light of the objection thereto by the Respondent. For an Appellant court to interfere with the sentence passed upon on accused by the trial court. It must be shown finely that the sentence was unlawful or secondly, that the sentence was harsh and excessive in the circumstances of the case.
2. In this case, the Appellant was charged with manslaughter contrary to section 202 of the penal code. Upon conviction, he was sentenced to ten (10) years imprisonment even though the offence carries with it a maximum sentence of life imprisonment.
3. The sentence was not only lawful but also reasonable in the circumstance of the case considering that the deceased was the aggressor and that he it was unfortunate that the accused/Appellant used excessive force when he used a stone to hit him on the head.
4. Consequently, the appeal is disallowed. However pursuant to the provisions of section 333(2) *Criminal Procedure Code* the period served by the Appellant in custody be taken into account in the computation of the sentence of 10 years' imprisonment imposed upon him by the trial court.
5. Otherwise, appeal dismissed.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 25TH JUNE, 2024.

J.R. KARANJAH



JUDGE

In the presence;

Appellant; Present

Mr. Karanja for state

Court Assistant; Kibet

