



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT ELDORET**

**CRIMINAL CASE NO. 11 OF 2016**

**REPUBLIC.....STATE**

**VERSUS**

**ALEX MUSASIA NGOSI.....ACCUSED**

**JUDGMENT**

1. Pursuant to a plea agreement filed herein on 11/11/2021, the accused pleaded guilty to the charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. The particulars of the offence being that on the 10<sup>th</sup> day of January 2016 at Sheiywe village in Eldoret West District within Uasin Gishu County in the Republic of Kenya unlawfully caused the death of Peter Amare.

2. The facts of the matter were as follows; that on 10/1/2016 about 12.30p.m accused left his home with his wife and went to the shop of Fredrick Wambayue. On arrival the accused found Fredrick with 2 people who he had hired to assist him in mixing shelf maize with pesticide for preservation. These were William Nyongesa and Ibrahim Kisa. The two were doing the work outside the shop when the accused and his wife entered the shop. After sometime a quarrel ensued between accused and Fredrick Wambayua. The accused was demanding to be paid for his mobile phone that had apparently been damaged by one of Fredrick's employees who used to work at the shop. Fredrick told him that he was not aware of the issue and the person he was talking about was no longer his employee at the shop as he had left sometime back. They started exchanging words. The accused threw a mobile phone he had at Fredrick and he started bleeding from the mouth. The accused and wife started beating Fredrick. William Nyongesa and Ibrahim Kisa who were outside the shop came in to assist their boss.

3 The two were separated and accused went home but left his wife behind. After about 10 minutes the accused came back and started assaulting Fredrick Wambayua again. It was at this point that the deceased Peter Amare who was working nearby came and separated them. Both accused and deceased who were neighbors left the scene as if they were going to their various homes.

4. The accused was following the deceased from behind and asked him to stop. The deceased was riding his bicycle. The accused quarreled the deceased, pushed him and sat on him and stabbed the deceased severally on the chest, right hand and head with a knife that he had. The accused then left the scene after threatening to stab on lookers. The deceased was taken to Lukuyani Hospital where he was pronounced dead on arrival. The deceased's body was taken to MTRH mortuary for postmortem.

5. The accused was arrested the same day after he was identified by members of the public. He was escorted to Soi Police Station awaiting further investigations.

6. On 18/1/2016 Postmortem was conducted to ascertain the cause of death of the deceased. It was confirmed to be severe chest injury due to stab wounds. Postmortem Report was produced as exhibit No. 1 and knife –Exhibit No. 2

7. On 10/2/2016 the accused was charged with offence of murder which the State substituted with manslaughter, under the plea agreement. The accused pleaded guilty to the charge of manslaughter and affirmed the correctness of the facts.

8. The accused having pleaded guilty, the duty of this court is to meet out the sentence.

9. Ms. Okok, the learned prosecutor submitted that the accused was a first offender, and was remorseful and should be jailed for 10 years,

10. Mr. Okora, learned counsel for the accused submitted that the accused was remorseful and had a young family and should be jailed for the time served of 6 years.

11. I have carefully considered the circumstances surrounding the murder of the deceased. I have also considered parties submissions. From

the facts of the matter it is clear that the accused at every stage of the event had intended the consequences of his action.

12. The deceased died after the second quarrel staged by the accused.

In the first quarrel the accused was accompanied by his wife. After a cooling session of about 10 minutes the accused staged another quarrel leading to the death of the deceased.

13. Although the charge of murder was by the plea agreement reduced to manslaughter to which accused pleaded guilty, it must be still noted that punishment for manslaughter is upto life imprisonment. Although the prosecutor has submitted that the accused be jailed to 10 years, it is the finding of this Court that a stiffer sentence is necessary in this matter. However, for the input made by Mr. Okara, the defence counsel, I am prepared to jail the accused for 12 years, which I hereby do.

14. In the upshot, I herewith sentence the accused to serve a period of 12 years from the date of arrest.

**Dated, Signed and Delivered at Eldoret this 27<sup>th</sup> day of January 2022.**

**E. O. OGOLA**

**JUDGE**