

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CRIMINAL CASE NO. 33 OF 2017

REPUBLIC.....STATE

VERSUS

SK.....ACCUSED

JUDGMENT

1. Pursuant to a plea agreement filed herein on 21/10/2020, the accused pleaded guilty to the charge of manslaughter. The charge is that on the 3rd day of June 2017, at [Particulars withheld] Village, Kessin Sub-Location, within Eldgeyo-Marakwet County, unlawfully killed DKK contrary to section 202 as read with section 205 of the Penal Code.

2. The facts of the offence were as follows; on the night of 2nd day of June, 2017 at around 9.00p.m the deceased who was the husband to the accused picked a quarrel with the accused and asked her to leave their home. The accused told him that she would not leave her matrimonial home as she had children and grandchildren to take care of. The following morning, that is, 3rd June 2017 the accused woke up, prepared tea and gave it to her children. She served the deceased with tea but instead he took the tea and poured it on the face of their daughter one BJ. The deceased then rushed to his room, picked a panga and started beating their daughter B telling her to go back to her husband. The daughter B had come back home because she had had domestic issues with her husband. The accused tried to plead with the deceased telling him to stop assaulting their daughter but her pleas fell on deaf ears. She went and tried to intervene and separate the two but the three of them fell down on the ground. It was then that she realized that her right leg had sustained a deep cut occasioned by the panga which the deceased was holding. Out of anger, the accused snatched the panga and slashed the deceased on the head, at the back and on the left ear in an effort to revenge and discipline him.

Upon realizing that the deceased was bleeding, the accused called for help among her in-laws and neighbours but by the time they arrived, the deceased had succumbed to his injuries. The accused was then escorted to Kapsowar AIC Hospital for treatment and it is there that she was arrested by the Police officers after treatment. The Police were called to the scene by the area chief one Edwin Yano. The Police officers collected the body and took it to Kapsowar mortuary awaiting a post-mortem.

On the 8th day of June, 2017 post-mortem was conducted to ascertain the cause of death of the deceased and the same was confirmed to be severe bleeding due to multiple cut wounds.

On 26th July, 2017 the accused person was charged with the offence of murder which pursuant to the aforesaid plea agreement was reduced to manslaughter.

3. Having pleaded guilty to the charge, the only issue for the Court to determine is sentence.

4. Ms. Asiyo, learned state counsel submitted that the accused is a first offender and should be sentenced to the time served, noting that the unfortunate events leading to the death of the deceased were orchestrated by the deceased.

5. Mr. Miyienda, learned counsel for the accused also submitted that the accused be sentenced to the time served, noting that she had been in custody since June of 2017.

6. I have carefully considered there submissions. I have also considered the circumstances leading to the death of the deceased. Those were domestic quarrel which appear to have been started by the deceased.

The accused also appeared remorseful and is the only remaining parent to their children.

As unfortunate as this incident was, this Court is of the opinion that the accused deserves a lenient sentence. She has already served five years in remand. In my view, that is adequate punishment in the circumstances of this case.

7. The upshot is that the accused is jailed for the time served, and is for that reason forthwith released and set free unless lawfully held.

E. OGOLA

JUDGE

JUDGMENT DATED, SIGNED and DELIVERED at ELDORET this 26th day of JANUARY, 2022.