



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. 20 OF 2016**

**REPUBLIC OF KENYA.....PROSECUTOR**

**VERSUS**

**DOMINIC NJENGA KARANJA.....ACCUSED**

**RULING ON SENTENCING**

1. **DOMINIC NJENGA KARANJA (Dominic)** was convicted on 23<sup>rd</sup> March, 2021, of the offence of manslaughter contrary to section 202 (1) of the Penal Code. That conviction was by *Justice C. Meoli*. Her ladyship was transferred from Kiambu High Court and the responsibility of considering the sentence of **Dominic** has fallen on me.

**FACTS**

2. Dominic on the night of 23<sup>rd</sup> September, 2015 was inside his house while his wife was outside washing clothes. They resided on a plot which had other rooms rented by other people. The deceased was reported to have been out on the best part of that evening, in the company of his cousin and from the evidence adduced before court during the trial, the deceased and his cousin had consumed considerable alcohol. The deceased's cousin resided in the one of the rooms of the plot where Dominic also resided. The deceased was a 19 year old young man. He lived with his father but sometimes spent nights with his cousin.

3. On the night of 23<sup>rd</sup> September, 2015 the deceased accompanied his cousin to his place of residence. As they entered the plot and on finding the accused's wife washing clothes outside their room, the deceased seduced accused's wife which led accused's wife to scream. That alerted Dominic who came out of their room. Prosecution's witness, deceased cousin stated that Dominic was angered by deceased seduction of his wife. Dominic and his wife were seen pushing deceased out of the gate of the plot and Dominic is said to have hit deceased with blows. Deceased's cousin on seeing Dominic ejecting deceased from the plot entered his room to sleep.

4. The following morning deceased's body was found lying in a disused quarry. The cause of death was stated by the pathologist to be strangulation.

5. The trial Judge after evaluating the evidence tendered by the prosecution and defence found Dominic guilty of manslaughter. The trial Judge stated while convicting Dominic that his action which led to the death of the deceased was over-reaction by Dominic to the seduction, by the deceased of his wife.

6. That outline of the evidence is the basis of manslaughter conviction.

**MITIGATION**

7. Dominic is 33 years old. He is married with two young children. He has a close-knit supportive family. Until the commission of the offence in this matter Dominic was employed and was able to provide for his young family. He has two young children, one 9 years old and the other 6 years old.

**ANALYSIS**

8. I will consider the Canadian Criminal Code on sentencing which I find useful. In that, it is stated:-

***“The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:***

*(a) to denounce unlawful conduct;*

*(b) to deter the offender and other persons from committing offences;*

*(c) to separate offenders from society, where necessary;*

*(d) to assist in rehabilitating offenders;*

*(e) to provide reparations for harm done to victims or to the community; and*

*(f) to promote a sense of responsibility in offenders, and acknowledgment for the harm done to victims and to the community.*

***A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.***

9. In my view the objective of sentencing Dominic should be one which promotes a sense of responsibility in him, and to have him acknowledge the harm he has done. Dominic spent close to a year in pre-trial incarceration before he was granted bail. In my view that time spent in custody suffices as this Court's denunciation of the unlawful conduct. In view of the fact that there are no aggravating circumstances that led to the commission of the offence, I am of the view that Dominic should be sentenced to 5 year suspended sentence.

#### **DISPOSITION**

10. This Court, bearing in mind the circumstances of the offence, and with a view promotes, in the life of ***Dominic Njenga Karanja***, a sense of responsibility does hereby sentence ***Dominic Njenga Karanja*** to 5 (five) years suspended sentence.

11. Accordingly, and in that regard, I order **Dominic Njenga Karanja** to be released from custody unless otherwise lawfully held.

**RULING DATED AND DELIVERED AT KIAMBU THIS 24<sup>TH</sup> DAY OF JUNE 2021**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: Ndege

**Dominic Njenga Karanja** : Present Online

For: **Dominic Njenga Karanja** Mr. Mathenge

For **DPP**: Kasyoka

**COURT**

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**