



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.34 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

GEOFFREY KIPKOECH ROTICH.....ACCUSED

RULING ON SENTENCE

1. The Accused Person was initially charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code and the offence was reduced to Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code following a successful plea bargain agreement signed by the Accused person on 26/5/2021.
2. The particulars of the charge of Manslaughter were that on 9/10/2016 at Lelach Village in Bureti Sub-County within Kericho County, the Accused Person unlawfully killed Erick Cheruiyot.
3. The fact as given by the prosecuting counsel were as follows:-

On the night of 9th October, 2016 at 6:30 pm in Lelach Village, Bureti Sub-County, the deceased and his friend Vincent Kiplangat Yegon were coming from drinking spree at Chebilat Trading Centre.

On reaching a bus stage, they found the Accused who is a Motorbike rider. They asked him to take them to Lelach Trading Centre and agreed to pay the Accused Kshs.200/= for the service.

The Accused carried them on his Motorcycle and on their way to Lelach, they met one Denis who is known to the Motorcycle rider and decided to carry him also, making them a total of three passengers and the rider (Accused).

On reaching Lelach Centre, they all alighted and the deceased refused to pay the entire 200/= as they had agreed earlier arguing that the Accused carried the third passenger on the way and that amount should be shared with the third passenger.

This annoyed the Accused Person and after brief argument, the Accused boarded his Motorbike and rode off to his house leaving the deceased and Vincent Kiplangat at the Centre.

After a short while, the Accused went back to the Centre armed with a sword and was looking for both the deceased and Vincent Kiplangat. He asked the people around about their whereabouts without any success.

He continued searching around for them and managed to trace the deceased within the Centre. The Accused alighted from his Motorbike carrying the sword and attacked the deceased. A fight ensued between them and in the process the Accused stabbed the deceased on his abdomen and on the chest. The deceased then fell down bleeding and writhing in pain.

The Accused Person then rushed to a nearby hotel and hide the sword behind a wooden counter and went back to the scene to join the members of the public who were milling around the injured deceased.

On seeing that he had seriously injured the deceased and was in critical condition, he offered to take him to hospital using his Motorbike with the assistance of one of the other person from the crowd. On arrival at Kaplong Mission Hospital the deceased was received by emergency nurses and was taken to the casualty unit.

The Accused then convinced the other good Samaritan to stay in the hospital as he goes to look for the deceased relatives. The Accused went back to the Hospital later in the company of the deceased's brother called Geoffrey Cheruiyot only to informed that the deceased had passed away while undergoing treatment.

The body of the deceased person was taken to Kapkatet District Hospital Mortuary and postmortem conducted by Dr. P. K. Koech who noticed deep stab wounds on the chest and abdomen on the body of the deceased.

He formed the opinion that the course of the death was hemorrhage shock secondary to stabbing.

Meanwhile the Accused Person surrendered himself to the Area Chief the following day who escorted him to Litein Police Station and handed him over to the police.

The Accused was then charged with Murder Contrary to Section 203 as read with Section 204. This has now been reduced to manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code.

4. The Learned Counsel for the Accused Person said in mitigation that the Accused Person is remorseful for the offence he committed and further that at the time of the offence he was 21 years old and was planning to join High School and had dreams of going to the University.
5. It was further said in mitigation that the Accused Person who comes from a humble background was engaged in Motorcycle business to help him raise fees to further his education.
6. The Accused Person rendered services to the deceased and his friend and they refused to pay him and this triggered a fight in which the deceased was fatally injured.
7. The Accused Person pleaded for leniency and asked the Court to consider a non-custodial sentence considering that it is the Accused Person who took the deceased to Hospital and also informed the deceased person's relative of the incident.
8. The Probation Officer filed a pre-sentence report detailing the social background of this case. The Accused Person's family has reconciled with the deceased's family.
9. The Court has considered the mitigating circumstances of this case especially the fact that the Accused Person is a first offender and that he is remorseful for the offence he committed.
10. The Accused Person pleaded guilty to the charge of Manslaughter and saved the Court's time for conducting a trial.
11. This Court has considered that the Accused Person has been in custody since 12/10/2016 when he was first arraigned in Court, a period of over five (5) years.
12. The offence of Manslaughter is a serious one and the law provides for a sentence of life imprisonment.
13. The Accused Person ought not to have taken the law into his own hands. He ought to have used lawful means to get his money from the deceased and his friend after offering them services.
14. Considering that the Accused Person has been in custody for a period of over five (5) years, I consider this case suitable for probation sentence.
15. The Accused Person is placed on probation for a period of three (3) years on condition that he complies with the requirements of the probation officer.
16. The County Probation Officer to organize for Counseling Services to re-intergrade the Accused Person back to society.

DELIVERED, DATED AND SIGNED AT KERICHO THIS 20TH DAY OF DECEMBER, 2021

A. N. ONGERI

JUDGE