



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**CRIMINAL CASE NO.5 OF 2019**

**REPUBLIC.....PROSECUTION**

**VERSUS**

**PETER NDACHI ZACHARIA.....ACCUSED**

**SENTENCE**

1. The accused was initially charged with murder but convicted of manslaughter under section 202 as read with section 205 of the Penal Code (cap.63), after entering into a plea bargaining agreement with the State.
2. After conviction, the learned Assistant Director of Public Prosecutions Mr. Ayodo informed the court that the accused was a first offender.
3. Learned defence counsel Ms Dela Wilbey in mitigation stated that the family of the accused and that of the deceased had already conducted the Kipsigis cleansing ceremony for the incident, which means that the deceased's family had forgiven the accused. Counsel also submitted that the accused was a family man, married with two children and the family's breadwinner. Counsel added that the accused was drunk and when he found the deceased with his wife and enquired about their relationship, the deceased answered him rudely and a fight ensued in which the accused picked a wooden piece and hit the deceased. Counsel emphasized that the accused actually assisted in taking the deceased to hospital, and relied on a letter from the area chief confirming that the accused came from his location in Londiani area. Counsel also relied on a baptismal certificate of the accused, which was filed.
4. This court ordered filing of a pre-sentence report which was filed on 28<sup>th</sup> October 2019 and signed by Christine Amisi, a Probation Officer, Kericho. In the report, the Probation Officer was hesitant to suggest a non-custodial sentence because the two families which lived far apart, the accused being at Londiani and the deceased being at Kamara in Baringo County, had not reconciled.
5. I have considered all the above factors, and the fact that the accused has been in custody from March this year, about seven (7) months now. A precious life was lost, but the weapon used, a piece of wood was ordinarily not a lethal weapon. The accused person is remorseful, but there is need to discourage needless violence. I sentence the accused to serve four (4) years imprisonment. Right of Appeal on sentence is explained.

**Dated and delivered at Kericho this 29<sup>th</sup> day of October 2019.**

**George Dulu**

**JUDGE**