

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

CRIMINAL CASE NO. 8 OF 2019

REPUBLIC.....PROSECUTOR

VRS

DCR.....ACCUSED

SENTENCE

1. The accused has been found guilty of the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code following a plea bargain agreement with the State. The State through Mr. Ayodo has indicated that he does not have a previous record and I thus treat him as a first offender.

2. This court ordered the filing of a pre-sentence report, which was filed.

3. In mitigation, Mr. Sang for the accused person stated that the accused was a young man aged 16 years and also in form one and a son of a single mother. He was remorseful and acted in anger on seeing his late father's matrimonial bed being desecrated by the deceased. Counsel stated that the deceased was the aggressor having been warned by the accused severally not to come to that home. Counsel further stated that the accused had taken up the role of his late father in the home, and that the family relied on him. Counsel added that the family of the accused had sought forgiveness from the deceased's family, and asked the court for leniency preferably a non-custodial sentence.

4. I have considered the circumstances of the case and the mitigating factors. The accused is a young man. He used a lot of force in stabbing the deceased twice in the left of the chest. Though the accused person is a young man and has pleaded guilty to manslaughter, the force he used was certainly excessive, and especially for a young man whose temperament and sense of jealousy appear to be more intense than that of an adult. He is school going, but I do not think that non-custodial sentence is appropriate in the circumstances of this case. He has to learn to live a peaceful life and avoid the use of violence to address life issues.

5. Though the pre-sentence report recommends as an alternative rehabilitation of the accused at Shikuza Borstal Institution for 3 years, it is not stated that there is a vacancy in that institution.

6. I will thus ask to be availed a report from a Borstal Institution to determine the appropriate confinement of the accused under the Children Act and defer actual sentence.

Dated and delivered at Kericho this 28th day of November 2019.

George Dulu

JUDGE