



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 12 OF 2017**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**THOMAS OCHARI OMBUYA.....ACCUSED**

**SENTENCE**

1. **THOMAS OCHARI OMBUYA**, the accused herein **was** initially charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. By a plea bargain agreement made on 30<sup>th</sup> January 2018, the said murder charge was reduced to a lesser charge of manslaughter after which the appellant pleaded guilty to the lesser charge and was convicted on his own plea of guilty.
2. The particulars of the offence were that on 13<sup>th</sup> June 2017 at Masingori village, Nyakorere sub-Location, Marongo Location in Kisii County unlawfully caused the death of **EZEKIEL OMBUYA OCHARI**.
3. The facts of the case were that on the material day, the accused who was the son of the deceased, disagreed with the deceased over the deceased's intention to marry another wife. Following the said disagreement, a physical confrontation ensued in which the accused hacked the deceased severally with a panga. The deceased later died due to hemorrhagic shock caused by deep cut wounds on the head and neck.
4. In mitigation, Miss Kerubo learned counsel for the accused informed the court that the accused was a young man and a form 2 student who desired to pursue his secondary education. She added that the accused was very remorseful for causing his father's death.
5. A pre-sentencing report filed by the Probation Officer on 8<sup>th</sup> March 2018 disclosed that the accused was a victim of a very troubled childhood as his mother and father separated when he was only 9 years and has had to live under the care of different step mothers thereby resulting in his bitterness towards his father whom he blamed for his mother's absence from the home. He noted that the accused was only 20 years old but had a reputation for violence in his home area and that his own relatives feared that he could be a danger to them if he was released from custody.
6. I have considered the circumstances under which the deceased met his untimely death at the hands of his own son. It is apparent to me that the accused was bitter with his father for leaving his mother and marrying other wives and this explains why the accused was bitterly opposed to the idea of his father marrying another wife.
7. The accused's bitterness notwithstanding, I find that nothing justifies the taking of another person's life more so, the life of a parent. The accused had many options at his disposal in dealing with his father's appetite for women apart from killing him. The accused's violent behavior has no place in a peace loving society. Manslaughter is a serious crime which attracts a maximum of life sentence upon conviction.
8. In the instant case, having regard to the facts of the case, I am of the view that a custodial sentence would be appropriate punishment for the accused.
9. Consequently, I hereby sentence the accused to 7 years imprisonment which period shall begin to run

from the date that the accused first appeared in court for this case being 15<sup>th</sup> June 2017

**Delivered, dated and signed in at Kisii on 20<sup>th</sup> of March 2018.**

**W.A. OKWANY**

**JUDGE**

**In the presence of:**

- Mr. Otieno for the State
- Miss Kerubo for the Accused
- Omwoyo court clerk