

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CRIMINAL CASE NO. 8 OF 2017

REPUBLIC.....RESPONDENT

VERSUS

LERIONKA KOIRRAG.....ACCUSED

SENTENCE

1. The accused has been convicted of manslaughter whose prescribed sentence is life imprisonment in terms of section 205 of the Penal Code [Cap. 63] Laws of Kenya.

2. The prosecution stated that the accused may be treated as a first offender. He urged the court to take into account the age of the deceased who was 38 years old and the nature of the injuries inflicted on the deceased.

3. Counsel for the accused in mitigation urged the court to be lenient in sentencing the accused. He submitted that the accused was 38 years old. He also submitted that the accused is married with two children aged 7 and 4 years old. The two children are attending school. He further submitted that the accused is the sole bread winner and is unemployed. Finally, counsel told the court that the accused has now stopped drinking and promises to be of good behaviour. She has therefore urged the court to impose a non-custodial sentence.

4. I find that the accused is a first offender. I also find that he is a 28 years old person who is married with 2 school going young children. The deceased was the aggressor.

5. Furthermore, I find that he is unemployed and is the sole bread winner of the family. All these are mitigating factors.

6. The aggravating factors include the fact that the accused caused the death of the 38 years old deceased person. The deceased died due to peritonitis, following the attack by the accused person, who struck the deceased three times using his rungu. The accused used excessive force in defending himself.

7. It is to be recalled that the deceased is the one who first slapped the accused. In response the accused retaliated by striking the deceased three times using his rungu.

8. After taking into account all the above factors, I find that the mitigating factors outweigh the aggravating factors. I therefore sentence the accused to nine years imprisonment.

Judgement delivered in open court this 11th day of April 2018 in the presence of Mr. Mukofu for the state and Mr. Kiptoo holding brief for Mr. Mongeri.

J. M. Bwonwonga

Judge

11/4/2018