



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 16 OF 2016**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**EMO.....ACCUSED**

**RULING ON SENTENCE**

The accused, EMO, was charged with the murder of DMN which took place on 24<sup>th</sup> and 25<sup>th</sup> May 2016 at Marani Sub County within Kisii County. After a plea bargain he pleaded guilty to the offence of manslaughter.

The facts of the case were largely based on circumstantial evidence as the accused, who was a cousin to the deceased, 4 year old child, was the last person to be seen with her and her body was found with head injuries in a well on the same day.

It emerged during the proceedings that the accused was 16 years old at the time he committed the offence. It also emerged that he had been convicted of stealing vide Kisii Criminal Case No. 1698 of 2014 and sentenced to serve two (2) years probation.

Considering the options for sentencing a child under section 191 of the Children Act and the circumstances of this case bearing in mind that he has been in custody since May 2016, I sentence the accused to two (2) years imprisonment but the sentence shall be suspended for a period of two (2) years. Should the accused commit any offence for which he is convicted, he shall be re-arrested and committed to serve the two (2) years sentence. He is now set free unless otherwise lawfully held. Probation Officer to be notified of this ruling.

**Ruling read and delivered in open Court this 21<sup>st</sup> September 2018.**

**D.S Majanja**

**Judge**

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions

Mr. Nyambati for Ms. Nduhukire, Advocate for the Accused