



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAIROBI

HCCRC NO. 50 OF 2016

LESIIT, J

REPUBLIC.....PROSECUTOR

VERSUS

R B.....ACCUSED

RULING ON SENTENCE

1. The accused **R B** was initially charged with murder contrary to **section 203** of the **Penal Code**. After a successful Plea Bargaining, an Agreement was entered into where the charges against the accused were reduced to manslaughter contrary to **section 202** of the **Penal Code**.
2. I have considered that the accused was arraigned in court on the 21st June, 2016. She has been in custody since then.
3. The State has treated the accused as a first offender.
4. Mr. Orlando for the accused has in mitigation on behalf of the accused urged the court to consider:
 - (i) Since incarceration the accused has undergone skills training and therefore has something to give back to society.
 - (ii) Offence was not intentional
 - (iii) That the accused is aged 17 years of age and has a long life ahead of her.
 - (iv) She is married with one child who has since died but that marriage still exists.
5. I have considered the mitigation given by counsel for the accused. I noted the accused age and therefore called for a Probation Officers Report.
6. The Report was filed and I have considered it. In regard to the offence and the attitude of the victims family I noted that the husband to accused, who was related to the deceased as both were cousins, and the deceased's aunt both were not opposed to accused being given a non-custodial sentence.
7. On the accused part, I noted from the Report that she stabbed the deceased in the fit of anger when he

was trying to coerce her to wash his clothes, and following an exchange which turned physical leading her to feel overpowered.

8. On the side of the accused family they attributed the accused action to the loss of her child which they believe might have affected her negatively; and that due to her quiet nature she never shared her pain with anyone thus piling up emotions. These emotions they believe might have led her to act out of anger.

9. The Probation Officer has recommended a non-custodial sentence.

10. Before giving the Probation order the court has a duty to find out whether the accused would be willing to serve such sentence.

11. The accused has expressed willingness to serve a probation term.

12. The court has explained to the accused that probation terms is a form of sentence and is not a discharge. There are conditions to be met. The conditions were explained which are:

(a) That she must serve under the supervision of a Probation Officer and that she must comply with conditions set by them and instructions given.

(b) That she must be of good conduct and must not commit any offence during the probation period.

(c) She must keep company with persons of good behaviour.

(d) She must attend guidance and counselling sessions to be organized by the Probation Department.

13. The accused is warned that if she breaches any of the above conditions she will be arrested and brought back to this court and the court may pass a non-custodial sentence.

14. The accused will serve a Probation term of 3 years.

DATED AT NAIROBI THIS 27TH DAY OF APRIL, 2017.

LESIIT, J

JUDGE