



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL NO. 5 OF 2015

REPUBLIC STATE

VERSUS

MATEA MANYAASACCUSED

RULING ON SENTENCE

1. **MATEA MANYAAS (Matea)** was arraigned before court on 14th July 2015 and was charged with the offence Murder **Contrary to Section 203 as read with Section 204 of the Penal Code**. Matea pleaded not guilty and in so doing stated:

“I did not do it intentionally”

2. The case was thereafter adjourned severally because prosecution did not receive the exhibit from the government chemist where it was undergoing examination.

3. On 23rd November, 2016 while the court was delivering its Ruling on bail pending trial it suggested that the parties do consider plea bargain. The culmination of that plea bargain was the plea of guilt to the offence of **manslaughter Contrary to Section 202 as read with Section 205 of the Penal code by Matea**.

4. The court received the plea bargain agreement whereupon the prosecution set out the facts of the case as follows:

“That on the 21st day of June 2015 at around 2100 hours the accused arrived from a safari that had taken him about four days. The accused knocked the door of his house where he lived with the deceased Santaiya Matea. The accused knocked the door and noticed that it was not locked from inside, so he pushed the door and entered the house. On entering the house, the accused, the deceased woke up. She looked worried and disturbed and the accused asked her the cause of the worry. All over a sudden a man emerged from their bedroom armed with a rungu and tried to escape. The accused immediately drew his sword as he was attacking the man the deceased stood in middle in defense of the man, blocked the sword with the arm and in the process the deceased was seriously injured.

During the confrontation the assailant escaped, as the accused gave chase. Thereafter the accused lost control of himself and chased everybody around. The accused was cooled down by his brother and together they called for boda boda operator who took the deceased to Kimanju hospital from where she was referred to Nanyuki District

Hospital and passed on the way to hospital. Postmortem was conducted where it established that the cause of death was due to excessive loss of blood from deep cut injury to the left arm”.

5. In mitigation Learned Counsel for Matea stated that Matea was first time offender, which fact was confirmed by prosecution. That he regretted the act he committed and that it was not intentional but that it arose out of provocation. Further that Matea has eight children with his first wife and two children with his deceased wife. That all those children were minors and depended on him.

6. From the facts narrated above it is clear that the injury to Matea’s deceased’s wife was an unintended consequence of his anger after finding another man in his bedroom with his deceased’s wife. It is also important to note that the other man was armed with a rungu (club) and it is possible that Matea apprehended danger when he drew his sword. The court takes into account that a consequence of Matea’s decision to draw his sword resulted in the death of his wife. The sentence of manslaughter should reflect the seriousness with which the legislature viewed it when it fixed the maximum sentence of manslaughter to life imprisonment see Section 205 of the Penal Code.

7. This court however considers that Matea pleaded guilty to the offence of manslaughter and that he was remorseful. In the case ***JOHN ELIPA KALABUS-V-STATE 1988 PNGLR 193 of Papua New Guinea*** the court had this to say:

“Remorse and contrition are factors weighed in the matter of sentence in favour of accused person, particularly if they are manifested in plea of guilty”.

8. The other consideration this court has in mind is that Matea has ten children who depend on him. Matea has been in custody since July 2015 to date.

9. As a consequence of the above this court find that the period Matea has been in custody, close to two years is sufficient punishment. The court sentences Matea Manyas to the period already served. **Matea Manyas shall be set free from custody unless he is otherwise lawfully held.**

Dated and Delivered at Nanyuki this 30th May 2017

MARY KASANGO

JUDGE

Coram

Before Justice Mary Kasango

Court Assistant: Njue/Maria Stella

Accused : Matea Manyas

For state: Mr. Tanui

Language: Maasai/English Interpreter: Maria Stella

COURT

Ruling delivered in open court

MARY KASANGO

JUDGE