

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT CHUKA

HIGH COURT CRIMINAL CASE NO.1 OF 2017

REPUBLIC PROSECUTOR

VERSUS

KENNETH NDEREBA KABURUGO..... ACCUSED

J U D G M E N T

1. **KENNETH NDEREBA KABURUGO** the accused herein was initially charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code** with the particulars of the offence being that on 25th December, 2016 at Nguruki market, Maara Sub-County Tharaka- Nithi County, he unlawfully murdered Eric Mureithi Kaburu. The accused denied committing the offence but after a plea bargaining agreement, the charge was reduced to manslaughter contrary to **Section 202** of the **Penal Code**. The accused pleaded guilty to the charge and accepted the facts presented by the prosecution as true. The accused herein therefore stands convicted and is hereby convicted in accordance with the law in his own plea of guilty.

On the question of appropriate sentence, the law under **Section 205** of the **Penal Code** provides for a maximum sentence of life imprisonment for a manslaughter charge. This court however in exercise of its discretion under **Section 26(2)** of the **Penal Code** has taken into consideration the plea bargain and the mitigation by the accused person. He is Remorseful for ending the life of his brother in law in the manner he did but that of course does not give an excuse to commit the said crime. I have considered the probation report filed which is favourable to a non-custodial sentence but given the seriousness of the offence and loss of life I do not find it appropriate in the circumstances that a non-custodial sentence is appropriate to enable the accused have a reflection on the crime he committed and possibly reform. He is sentenced to 10 years imprisonment. He has 14 days right of appeal.

Dated, Delivered at Chuka this 22nd day of June, 2017

R.K. LIMO

JUDGE

22/6/2017