



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO.20 OF 2016
REPUBLICPROSECUTOR
VERSUS
DOUGLAS MOGESI GEKONGE.... ACCUSED
SENTENCE

1. The accused herein, DOUGLAS MOGESI GEKONGE was initially charged with the offence of **Murder contrary to Section 203** as read with **Section 204 of the Penal Code**. The said charge was, by a plea bargain agreement dated 5th December 2016 and recorded in court on 10th July 2017, reduced to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code**.
2. The particulars of the offence were that on the night of 25th June 2016 at Keumbu Division within Kisii County unlawfully caused the death of **Samuel Gekonge**.
3. The accused pleaded guilty to the lesser charge of manslaughter and was subsequently convicted on his own plea of guilty.
4. The facts of the case, as narrated by Mr. Otieno counsel for the state, were that the accused and the deceased were son and father respectively and that on 25th June 2016, the deceased and his wife had a disagreement that caused the accused to join in the fray whereupon he viciously beat the deceased with a wooden plank and he did not stop despite pleas and the intervention from other family members. It took the efforts of 2 brave neighbors to stop the accused from beating his father when they wrestled him to the ground and disarmed him but no sooner had the accused been disarmed than he threatened the two neighbors with a panga thereby causing them to run away for their own safety. The deceased later on went back into his house but was on the following morning found lying dead next to his bed. He had deep cut wounds on the head and injuries on the legs.
5. In mitigation, Mr. Ondari learned counsel for the accused, submitted that the accused was a first offender and his father's (deceased's) attempt to beat his mother led him to attack the deceased. He pleaded for leniency on behalf of the accused who, he stated, was a promising young man.
6. The probation officer's report was filed in court on 25th July 2017. The said report does not paint a very rosy picture of the accused's character, temperament and reputation. The probation officer states that his investigations into the background of the accused reveals that he is a violent, dangerous, over-bearing and anti-social person whose own community is not willing to accept back in their midst. The accused' own mother and grandmother are reported to be unwilling to receive him back home.
7. The probation officer states that the accused is unsuitable to be considered for a non-custodial sentence.

8. I have considered the circumstances under which the offence herein was committed and noted that the accused went on a murderous rage by mercilessly clobbering his own father. I note that the accused was so determined to unleash terror on his father going by the fact that he did not stop his onslaught despite pleas and intervention by his family members and neighbors.

9. This case is a classic demonstration of the total breakdown in societal and family values that once held the society together and made it a taboo for one to even contemplate lifting a finger against his own parent. The accused had no qualms about beating his own aging father to death and he should equally not expect to get any sympathy from this court.

10. The brutal nature of the accused's attack on his father can be seen from the contents of the post mortem report wherein it is noted, in part, that the deceased had "five cut wounds on the head and fractured frontal skull," and that the cause of death was heamorrhagic shock due multiple cut wounds on the head due to a sharp object.

11. Having regard to the totality of circumstances surrounding this case and having regard to the fact that the accused agreed to plead guilty to a lesser charge under a plea bargain agreement thereby saving the court the valuable time that could have been spent on a full trial, I hereby sentence him to serve 10 years imprisonment.

12. It is so ordered.

Dated, signed and delivered in open court this 26th day of July, 2017.

HON. W. OKWANY

JUDGE

In the presence of:

- Mr. Otieno for the State
- Mr. Sagwe for Ondari for the Accused
- Omwoyo court clerk