



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO. 17 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

EDWARD RIOGI KEREU.....ACCUSED

SENTENCE

1. The accused person herein **EDWARD RIOGI KEREU**, 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 signed between the accused and the state on 19th September 2017, reduced to a lesser charge of manslaughter contrary to **Section 202** as read with **205 of the Penal Code**.
2. The particulars of the charge were that on 9th July 2017 at Engou village, Nyabera sub location, Otendo location in Gucha South Sub-County within Kisii County unlawfully caused the death of **RANGAU OBARA**.
3. The accused pleaded guilty to the lesser charge of manslaughter and was accordingly convicted on his own plea of guilty.
4. The facts of the case were that on the material date, the accused picked a quarrel with his cousin one James Riogi Obasa who had accused him of having affairs with married women. The quarrel escalated into a physical confrontation before the duo were separated by the deceased and one Julius who decided to escort the said James to his home, but while on their way home, the accused all over sudden resurfaced from a banana plantation while wielding a panga which he used to cut the deceased on the neck. Upon realizing that he had cut the deceased instead of his real target, James, with whom he had a fight, the accused turned the panga on James and swung it to his direction, but fortunately, James ducked and missed the panga which instead cut a nearby banana stem. Julius and James managed to subdue and disarm the accused but the deceased died on the spot.
5. The post mortem report established the cause of death to be hemorrhagic shock and the severance of the carotoid artery and the jugular vein.
6. In mitigation Mr. Sagwe for the accused pleaded for leniency on his behalf while stating that he was a married man with 3 children. He added that the accused was remorseful as he did not intend to kill the deceased.
7. The probation officer's report filed in court on 6th November, 2017 shows that the accused is not suitable for a non-custodial sentence.

8. I have considered the facts of this case, the mitigation tendered by Mr. Sagwe on behalf of the accused and the probation officer's report. I note that even though the accused is reported to be a first offender, his vicious attack on the deceased was uncalled for and the accused's claim that he did not intend to kill the deceased is ironical as he was fully aware that the very act of arming himself with a panga, which he knew was a lethal weapon, and using it to hack the deceased on the neck could only have had one result. The accused did not stop at fatally attacking the deceased but went ahead to use the same weapon to threaten other people who were with the deceased and it was only by a stroke of luck that they were able to disarm the accused thereby stopping a potential blood bath.

9. The accused's uncontrolled murderous rage led to the death of an innocent man whose only 'mistake' was to try and bring peace between the accused and the said James with whom the accused had a fight. The actions of the accused, in this case, portray him as a person who has no respect for human life and he should, in turn, expect no sympathy from this court.

10. My finding is that the report and recommendations of the probation officer notwithstanding, a custodial sentence is called for in this case.

11. Consequently I hereby sentence the accused to 10 years imprisonment.

Delivered, dated and signed in at Kisii on **30th** of **November**, 2017.

W.A. OKWANY

JUDGE

In the presence of:

- Mr. Otieno for the State
- Mr. Bigogo for the Accused
- Omwoyo court clerk