



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**

**CRIMINAL CASE NO.104 OF 2014**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**P B S .....ACCUSED**

**SENTENCE**

1. The accused person herein **P B S** was initially charged with one count of **Murder contrary to Section 203** as read with **Section 204 of the Penal Code**.
2. By a plea bargain agreement entered into between the State and the accused person on 14<sup>th</sup> July 2015, the said charge was reduced to **Manslaughter contrary to Section 202** as read with **Section 205 of the penal Code**.
3. The particulars of the charge are that on **14<sup>th</sup> October 2014** in Masaba South District within Kisii County, unlawfully caused the death of **D N O**.

The accused was convicted of the charge of Murder on his own plea of guilty.

4. The deceased herein then a toddler aged 1 ½ years was the son of the accused. The accused and his wife, the mother of the deceased were engaged in a heated domestic quarrel that caused the wife to run away from home only to return the following day to find that the baby had died due to neglect, severe malnutrition and hypoglycemia. The death of the deceased was directly attributed to the cruel actions of the accused.
5. In mitigation, Mr. Bigogo for the accused submitted that the accused was remorseful for his actions and pleaded for a non-custodial sentence. Mr. Bigogo added that the accused was a young man aged 22 years and was willing to fully reform and be a law abiding citizen.
6. The Probation Officer's pre-sentencing and victim impact assessment report filed on **15<sup>th</sup> December 2015** favoured and recommended a non-custodial sentence in respect of the accused.
7. I have considered the very disturbing circumstances that led to the death of the deceased who was then a very young baby. I have also taken into account the mitigation tendered by counsel for the accused and the recommendations of the Probation Officer regarding sentence.
8. The careless actions of the accused led to the untimely death of his own baby.
9. I am convinced that the more than one year that the accused has been in custody is enough wake-

up call for him to be more considerate to his family members especially his wife and children and to tame his anger.

10. Consequently, I hereby sentence the accused herein **P B S** to 2 years Probation during which period he will be supervised by the Probation Officer of his area.

11. It is so ordered.

**Dated, signed and delivered in open court this 27<sup>th</sup> day of January, 2016**

**HON. W. OKWANY**

**JUDGE**

**In the presence of:**

Otieno for the State

No Appearance for the Accused

Omwoyo: court clerk