



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO.32 OF 2014

REPUBLICPROSECUTOR

VERSUS

ERICK MORRIS OICHOE..... ACCUSED

SENTENCE

1. The accused herein **ERICK MORRIS OICHOE** was initially charged with one count of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. By a plea bargain agreement struck on 17th July, 2015, between the state and the accused, the charge was reduced to that of manslaughter contrary to **Section 202** as read with **Section 205** of the Penal Code.

It is alleged that on 27th February, 2014 at Iringa Sub-Location in Gucha South District within Kisii County, jointly with others not before the court unlawfully caused the death of **CLEMENCIA BOCHERE**.

2. The accused pleaded guilty to the lesser charge of manslaughter and was consequently convicted on her own plea of guilty.
3. The facts of the case were stated to be that on the fateful day the accused, in the company of many other people stormed the home of the deceased and lynched her on the allegation/accusation that she was a witch.
4. Later, on the same day of the attack, the accused is said to have come back to the home of the deceased while armed with a knife bragging that he was the one who had killed the witch. In a very bizarre move, the accused is reported to have smeared the blood of the deceased on the knife that he was armed with and licked it before leaving the home of the deceased.
5. A post mortem examination of the body of the deceased established the cause of death to be cardio-respiratory arrest secondary to brain tissue injury as a result of head injury.
6. In mitigation, Mr. Moseti for the accused submitted that the accused was remorseful about his actions which he attributed to drunkenness. Mr. Moseti stated that the accused deeply regretted his own folly and had been haunted by the death of the deceased. Mr. Moseti added that the accused was aged only 28 years and was having a young family to take care of. Mr. Moseti prayed for a non-custodial sentence.
7. The court then called for the Probation Officers presentencing and victim impact assessment report before sentencing. Quite unfortunately, as at the time of preparing this sentence, the Probation Officer had not filed his pre-sentencing report.
8. I have considered the very macabre and disturbing circumstances surrounding this case. The accused was part of a mob that savagely attacked a helpless old woman on the suspicion that she was a witch. It is my humble view that mob justice is a very primitive and repugnant practice that

should not be allowed to fester or take root in any civilized society as it is a sure recipe for anarchy. Our legal justice system has a way of dealing with even the vilest offenders and therefore, any situation where a mob can take the law into their own hands has to be condemned in the strongest possible terms.

9. Taking into account the fact that the accused has been in custody for 2 years from the date he was first arraigned in court, the sentence that commends itself to me is that of 5 years imprisonment. The prison term shall run with effect from 3rd March, 2014 being the date when the accused first appeared in court.
10. It is so ordered.

Dated, signed and delivered in open court this 24th day of March, 2016

HON. W. OKWANY

JUDGE

In the presence of:

Mr. Otieno for the State

Mr. Magura for Ondari for Accused

Omwoyo: court clerk