



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYAMIRA
HIGH COURT CRIMINAL CASE NO.13 OF 2015
REPUBLIC.....STATE
-VERSUS-
EZRA NYAKUNDI ONYANGO.....ACCUSED
SENTENCING

The accused person, Ezra Nyakundi Onyango, was initially charged for Murder Contrary to Section 203 as read with Section 204 of the Penal Code.

However, through the process of plea agreement and bargaining, he pleaded guilty to the lesser offence of Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code.

Particulars thereof are that on 9th of December 2014 at Mwangori village in Borabu Sub-county within Nyamira County in the Republic of Kenya unlawfully caused the death of **TERESIA KERUBO**.

He was both found guilty and subsequently convicted of the said offence on his own plea and upon his rights having been explained to him.

The court then had the narration of the facts in this case by the prosecution. The accused confirmed those facts as narrated.

Therefore being no previous record, the accused was treated as a first offender.

In mitigation, the learned counsel Mr. Kaburi submitted as follows:

1. That the accused person is remorseful; and regrets the incident out of excessive anger as his wife appeared disrespectively to him.
2. That he did not have intention to cause what happened.
3. That he has been in custody for now one year.
4. That he had learnt what excessive anger can do.
5. That he is aged 38 years and has four (4) children who need his presence.

6. That the accused was a farmer and only breadwinner in the family.

7. That those children were used to two parents, and as one has passed on, the presence of the accused in their life is of tremendous value to them. They are at tender age and need the accused's presence in their lives.

8. That he is first offender

9. I pray for non-custodial sentence to enable him to be with the children.

The court called for probation report to guide it into the issue of sentencing.

The said report was filed in court on 29th March, 2016.

Here below are the written views of the various stakeholders of the various segments of society in respect of the accused person.

Victim Attitude: they are not opposing non-custodial sentence as they are aware of the circumstances of the offence. They are willing to reconcile and co-exist with him.

Family Attitude: they are receptive and willing to put up with the offender,

Community Attitude: They also have no objection if the offender is given non-custodial sentence as they classify him as no threat to societal peace and harmony.

Conclusion: The probation officer recommends that the accused be sentenced to serve under probation order.

Accordingly, this court will sentence the accused person to four years of non-custodial sentence to be supervised by the probation officer of his area.

Orders accordingly.

Dated and delivered at Nyamira this 29th day of April 2016.

C.B. NAGILLAH

JUDGE

In the Presence of:-

Bwonwong'a for the accused person

Konga for the State

Mercy -Court Clerk