



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
HIGH COURT CRIMINAL CASE NO.7 OF 2015

REPUBLIC.....STATE

-VERSUS-

RODGERS NYANGENA MOKAYA.....ACCUSED

SENTENCING

The accused person, **Rodgers Nyangena Mokaya**, was initially charged for murder contrary to **Section 203 as read with 204 of the Penal Code**.

However, through the process of plea agreement, he pleaded to the lesser offence of manslaughter contrary to **Section 202 as read with Section 205 of the Penal Code**.

Particulars thereof are that on the 1st day of October 2012 at Riamaranga village Kiogutwa Sub-location, in Manga District within Nyamira County in the Republic of Kenya, unlawfully caused the death of **DUKE NYAMBANE OMWEGA**.

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 heard the narration of the facts in this case by the prosecution.

There was no previous criminal records in respect of the accused. He is therefore treated as the first offender in this case.

In mitigation, counsel, Fredrick Ondigo submitted as here below:-

- 1. That the accused person is remorseful.**
- 2. That he had no intention to cause death to the deceased**
- 3. He is unmarried and wishes to get into society and prepare to marry.**
- 4. He seeks a lenient sentence**
- 5. His mother is a live and he wishes to fend for her.**
- 6. He seeks the non-custodians sentence.**

The court called for probation. The report was eventually filed on 2nd March, 2016.

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

Victim Attitude: She – the widow – is willing to forgive the accused person. The deceased followed him, and the accused never intended to cause harm to him, infact he was running away.

Family Attitude: The family's attitude was positive although they are against the offence.

Community Attitude: They argue that the accused ran away, but the deceased followed him for further fights. They pray that the accused be considered for a lenient sentence.

Conclusion: the accused, in view of the victim's attitude views, family attitude and views he be considered for non-custodial sentence under the guidance of probation officer of the area for moral guidance and rehabilitation.

Accordingly, this court will sentence the accused to two years non-custodial sentencing under the supervision of the Probation Officer of the area.

It is so ordered.

Dated at Nyamira this 22nd day of April, 2016.

C. B. NAGILLAH

JUDGE

In the presence of:

Fredrick Ondigo for accused per

Konga for the State

Mercy Court Clerk