



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISII**  
**CRIMINAL CASE NO. 92 OF 2014**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**PHILIP KIPTANUI NGETICHI.....ACCUSED**

**SENTENCE**

1. The accused person herein was initially charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. However, following a plea bargain agreement made between the accused and the state on 30<sup>th</sup> March, 2016, the accused pleaded guilty and was convicted of a lesser charge of manslaughter contrary to **Section 202** as read with **205 of the Penal Code**.
2. The particulars of the charge are that on 26<sup>th</sup> August, 2014 in Transmara West Sub-County within Narok County, he unlawfully caused the death of **M C**.
3. The facts of the case were that on 25<sup>th</sup> August 2014 the deceased, then aged 11 years, in the company of 2 other minors, was collecting firewood in the farm of the accused. The deceased had climbed a tree and upon seeing the accused, who was then armed with a rungu, she got confused, panicked and fell off the tree whereupon she sustained head injuries that resulted in her death 2 days later on 28<sup>th</sup> August 2014.
4. A postmortem examination of the deceased body revealed that she died due to cardio-respiratory arrest secondary to severe head injury and hemorrhage after assault with a blunt object.
5. A mental assessment conducted on the accused on 10<sup>th</sup> September 2014 revealed that he was fit to stand trial.
6. In mitigation, Mr. Bigogo for the accused submitted that he was remorseful over the death of the deceased minor as he had no intention of harming her Mr. Bigogo stated that the accused had held reconciliation meetings with the family of the deceased while he was out on bond and that he had already apologized to the deceased's family, who had already forgiven him. He added that the accused was aged 57 years, was married with 9 children who all depended on him for their education and upkeep. Mr. Bigogo pleaded for a non-custodial sentence for the accused.
7. The Probation Officers, pre-sentencing and victim impact assessment report filed in court on 9<sup>th</sup> May 2016 recommended a non-custodial sentence for the accused.
8. I have taken due consideration of the unfortunate circumstances that led to the death of the

deceased minor and the fact that the deceased, together with 2 other minors had trespassed into the farm of the accused with the intention of collecting firewood therefrom the deceased panicked fell off the tree upon realizing that the owner of the farm, the accused herein, had come to the farm.

9. I have also taken note of the mitigation tendered by Mr. Bigogo for the accused and the Probation Officer's report. It is quite unfortunate that the actions of the accused led to the death of a young and promising girl, but one thing that is for sure is that the accused never intended to kill the deceased.

10. In view of the above observations and findings, I sentence the accused to one year Probation during which period he will be supervised by the Probation Officer of his area.

Delivered, dated and signed in at Kisii on **25<sup>th</sup> day of May, 2016.**

**Hon W.A. OKWANY**

**JUDGE**

**In the presence of:**

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