



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO. 39 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

CAREN KERUBO OMOSA.....ACCUSED

SENTENCE

1. **CAREN KERUBO OMOSA** pleaded guilty to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code** after the initial charge of murder was reduced to manslaughter following a plea bargain agreement between her and the state.
2. The particulars of the offence were that on 22nd June 2015 at Getenga village in Kisii Central District within Kisii County unlawfully caused the death of **THOMAS MONGARE NTABO**.
3. The accused was convicted following her said guilty plea.
4. The deceased and the accused were husband and wife respectively and on the material day, a disagreement arose between the couple over a piece of the family land that the deceased wanted to sell which sale, the accused was opposed to.
5. The disagreement escalated to a physical duel in which the accused hit the deceased on the head using a club that resulted in his death the following day.
6. In mitigation, Mr. Bigogo for the accused submitted that she was remorseful and deeply regretted having killed her own husband and father of her children two of whom were minors aged 5 years and 3 years.
7. Mr. Bigogo pleaded for a non-custodial sentence for accused while reiterating that her minor children require her care and protection, and that her in-laws had forgiven her.
8. The Probation Officer's pre-sentencing report recommended a non-custodial sentence.
9. I have considered at the unfortunate circumstances that led to the death of the deceased in the hands of his own wife. It is quite regrettable that the couple decided to settle their differences through a violent confrontation. This case is a testimony of the total breakdown of family and societal values.
10. I am certain that the 1 year stint that the accused has had in custody will serve as an adequate lesson to her to keep off violent confrontations.

11. I have taken into account all the circumstances of this case and the fact that the accused has very young children to fend for now that their father is deceased and our social justice system still does not have clear provision for children who find themselves in such circumstances.

12. I find that a non-custodial sentence would be ideal in this case and I therefore sentence the accused to 1 year probation during which period she will be supervised by the Probation Officer of her area.

Delivered, dated and signed in at Kisii on **28th** of **July**, 2016.

W.A. OKWANY

JUDGE

In the presence of:

- Miss Mbelete for the State
- N/A for the Accused
- Omwoyo court clerk