

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 106 OF 2010

REPUBLIC.....PROSECUTOR

VERSUS

C K M.....ACCUSED

SENTENCE

1. The accused person herein, **C K M** was, by a judgment delivered by Karanjah J. on 21st June, 2016 found guilty of the offence of manslaughter contrary to **Section 202** as read with **Section 205 of Penal Code** and was consequently convicted.

2. In mitigation, Mr. Nyagwencha advocate for the accused submitted that he was remorseful for killing his own father and had since reformed. He added that the accused was diabetic, was HIV positive and had been in custody for the last 6 years.

3. The court then called for the Probation Officer's report before sentencing which report has been filed.

4. I have perused the said Probation Officer's report and I note that it contains a recommendation for a non-custodial sentence.

5. I have perused the judgment of Justice Karanjah and noted the circumstances that led to the death of the deceased after an assault by the accused herein. I also note that the deceased and the accused were father and son respectively and that they had frequent quarrels occasioned by the deceased's drunkenness.

6. I have also taken into consideration the mitigation tendered by counsel for the accused and more specifically, the fact that he has been in custody for the last 6 years while awaiting his trial. I am certain that the accused's long stay in remand custody has served as adequate lesson to him to respect his elders and to steer clear of violent confrontations.

7. After due consideration of all the circumstances surrounding this case, I come to the conclusion that the accused is a suitable candidate for a non-custodial sentence.

8. It is for the above reasons that I hereby sentence the accused to 1 year probation during which period he will be supervised by the Probation Officer of his area.

Delivered, dated and signed in at Kisii on 27TH of JULY, 2016.

W.A. OKWANY

JUDGE

In the presence of:

Mbelete for the State

Soire for the Accused

Omwoyo court clerk