



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 05 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

L S.....ACCUSED

SENTENCE

1. L S, 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 which charge was by a plea bargain agreement executed on 7th September 2016 between the accused and the state, reduced to the lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code**.
2. The accused pleaded guilty to the lesser charge of manslaughter and was consequently convicted on her own plea of guilty.
3. The particulars of the offence were that on 21st February 2016 at [particulars withheld] Sub-location in [particulars withheld] Sub County within Kisii County, the accused unlawfully caused the death of **E S**.
4. The facts of the case were that on 21st February, 2016 at about 9 a.m., the accused stabbed her 7 month old baby in the neck following a disagreement with her mother over the manner in which she was handling the said baby. The baby died due to severe haemorrhage as a result of the penetrating injury to his neck.
5. In mitigation, Mr. Okemwa for the accused submitted that she was remorseful over the offence which she deeply regretted. Mr. Okemwa added that the accused was a young girl who had dropped out of school at class 8 and was desirous to go back to school and complete her studies which had been cut short due to lack of examination fees. Mr. Okemwa pleaded for leniency and a non-custodial sentence while emphasizing accused's tender age and the fact that she was a first offender.
6. I have perused and considered the Probation Officer's report filed in court on 27th September 2016. The said report reveals that before me, is a young girl aged only 15 years but who can be said to have already "seen it all" at that tender age.
7. At the age of only 14 years, the accused had already dropped out of school due to pregnancy. The report also shows that the accused's pregnancy and birth of her baby E S, was the source of constant quarrels and disagreements between the accused and her mother, which quarrels culminated in the accused doing the unthinkable by stabbing her own baby and causing his death.
8. From the above report by the Probation Officer, it is abundantly clear to me that the accused had a very

troubled childhood characterized by early pregnancy and a hostile home environment.

9. The accused faced constant quarrels and taunting from none other than her own mother who ought to have been her only source of strength, comfort and consolation following the unfortunate circumstances that led to her pregnancy when she was least prepared to be a mother in the first place.

10. This court notes that everything that could go wrong in a young girl's life happened to the accused herein.

11. This case is a classic demonstration of a total breakdown in societal values that previously protected young girls from sex predators and supported victims of early pregnancies by giving them hope, support and guidance when faced with such challenges.

12. After taking in to account all the facts and circumstances surrounding this case, I am inclined to agree with the Probation Officer's report that the accused herein could benefit from a probation sentence albeit away from her home environment so that she can benefit from guidance, counseling rehabilitation and close supervision.

13. It is for the above reasons that I sentence the accused herein, L S, to 3 years Probation during which period she will be committed to (Particulars withheld) Girls' Probation Hostel.

Delivered, dated and signed in at Kisii on **29 of September, 2016.**

W.A. OKWANY

JUDGE

In the presence of:

- Mr. Otieno for the State
- Mr. Okemwa for the Accused
- Omwoyo court clerk