

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MALINDI

CRIMINAL CASE 2 OF 2016

REPUBLIC

VERSUS

JOHN MWANANJE BITETE

SENTENCE

The accused person was initially charged with offence of murder contrary to section 203 as read with section 204 of the Penal Code. The accused and his counsel, Ms Aoko, entered into a plea bargaining agreement and the accused was subsequently charged with offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. The accused pleaded guilty to the charge.

The particulars of the offence are that the accused on the 25th of February 2016 within Marereni Village in Magarini sub-county within Kilifi County unlawfully killed William Kalama Mulewa. The facts are that the deceased and the accused were friends and they went to drink. While drinking they started fighting and the deceased removed a knife and attempted to stab the accused. The accused overpowered the deceased and stabbed him in return. The accused was acting in self defence. The deceased succumbed to the injuries.

There is a Probation Officer's victim impact assessment Report dated 29th June, 2016. It is indicated that families of the deceased are still mourning the loss of the deceased and have not forgiven the accused. It is indicated that the deceased left two wives and about 9 children. The deceased was 44 years old.

It is clear from the information that the accused acted in self defence and that the two were friends. It is the deceased who attempted to stab the accused. Had he succeeded then the accused would have been injured or died. It is also established that the two were drunk. An offence was committed and the accused pleaded guilty. Counsel for the accused submitted in mitigation that the accused is remorseful. There was no intention to kill the deceased who was his friend. He is twenty one years and he has been in custody since March 2016.

Taking all the circumstances of this case I do find that there is need to impose a custodial sentence. Life was lost. The accused is hereby sentenced to serve three (3) years imprisonment.

Dated and delivered in Malindi this 22nd day of September, 2016.

S.J. CHITEMBWE

JUDGE