



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 10 OF 2016.

REPUBLIC.....PROSECUTOR

VERSUS

C OACCUSED

SENTENCE

1. **C O**, the accused herein was charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. By a plea bargain agreement made between the state through the prosecution and the accused on 7th November 2016, the accused agreed to plead guilty to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code**. The particulars of the offence were that on the night of 11th April 2016, at Iyabe Location in Kisii South District within Kisii County, unlawfully caused the death of M M.

2. The accused pleaded guilty to the charge of manslaughter and was accordingly convicted on her own plea of guilty. The facts of the case were that on 9th April 2016, the accused secured employment in Nairobi as a house maid but her prospective employer was emphatic that she could not take up the job if she was accompanied by her two year old child M the deceased herein. Faced with the task of making a decision between accepting the Nairobi job offer or staying back at home with her baby, the accused and her husband one J O, on 10th April 2016 hatched a plan to get rid of the child by dumping her in a river as it then appeared to them that the child was becoming an obstacle to the accused's job prospects.

3. The accused actualized their evil plan by dumping the child into Iyabe River at night and the lifeless body of the child was recovered from the said river on 12th April 2016.

4. In mitigation, Mr. Okenye for the accused submitted that she was a young girl aged 20 years and that she was remorseful for the offence.

5. The Probation Officer's report filed in court on 25th November 2016 revealed that the accused could benefit from a non-custodial sentence.

6. I have carefully considered the circumstances surrounding this case, the mitigation tendered by Mr. Okenye advocate for the accused and the contents of the probation officer's report.

7. The accused was the mother of the deceased yet she had no qualms about ending her own baby's life so that she could be "free" to take up a job offer in Nairobi.

8. It is inconceivable and indeed, difficult to comprehend how a sane mother can be so cruel to her own child to the extent of ending her young innocent life on the ground that the child had become an obstacle

to her job prospects. Considering that the job of a house-maid entails taking care of young children, one wonders what sort of a maid the accused could have been if she had the guts to mercilessly kill her own child.

9. I find that the accused was old enough to know the consequences of her actions. She had several options at her disposal to either reject the job offer, give up the child to a children's home for adoption or leave her with her parents but she chose to do the unthinkable by throwing the baby into the raging river.

10. The actions of the accused portray her as a heartless human being who does not deserve the leniency of this court. The accused must take full responsibility her heinous crime which to me, is a demonstration of how low the human race has sunk in terms of respect for human life.

11. The contents and recommendations of the probation officer notwithstanding I still find that the offence committed by the accused calls for a custodial sentence.

12. Consequently, I sentence the accused to serve 7 years imprisonment which sentence shall run from the date of her first court appearance.

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

W.A. OKWANY

JUDGE

In the presence of:

- Miss. Mbelete for the State
- Mr. Kaburi for Okenye for the Accused
- Omwoyo court clerk