



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION**

**CRIMINAL REVISION NO. 177 OF 2016**

**CHARLES OLWENYI ANG'AWA.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

The Applicant came to this court invoking its revisionary jurisdiction under Sections 362 and 364 of the Criminal Procedure Code for purposes of revising his sentence. He was charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. It was alleged that on 11<sup>st</sup> May, 2010 at Waruku in Nairobi within Nairobi Area Province murdered Byron Owino Onyango. The appellant was however convicted for the offence of manslaughter contrary to Section 202 of the Penal Code after the State and the Applicant negotiated a plea bargain. He was sentenced on 23<sup>rd</sup> October, 2014 to serve five years imprisonment.

In this application, he asks the court to release him unconditionally or on non-custodial sentence as he has already served sufficient sentence. In addition, while in prison, he has learnt a lot of life support skills such as counseling, business management and painting which would assist him once he left the prison. He also urged the court to consider that he was in remand for four years before the sentence was passed. The State through the learned state Counsel Ms. Akuja did not oppose the application on ground that the Applicant had served sufficient sentence.

I have considered the application itself and the circumstances surrounding the case. This was a clear case of manslaughter. The Applicant went to the deceased's house and demanded that the deceased pays his debt. A quarrel between the two erupted. The Applicant severally stabbed the deceased. The noise by the two attracted neighbors who rushed to the scene. They found the house locked from inside. To avoid being arrested, the Applicant set the house ablaze so that he could commit suicide. He was however arrested. A post mortem revealed that the deceased died of stab wounds.

The Applicant first appeared in court on 11<sup>th</sup> June, 2010. As at date, he has been in custody for six years. Although he was granted bond, the same was too high for him to afford. No doubt he has served sufficient sentence. I allow the application. I set aside the order that he serves five years imprisonment and substitute it with an order that he be and is hereby forthwith set free unless otherwise lawfully held.

**DATED and DELIVERED this 21<sup>st</sup> day of December, 2016.**

**G.W. NGENYE-MACHARIA**

**JUDGE**

**In the presence of:**

***1. Applicant in person***

***2. ....for the Respondent.***