



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 92 OF 2011

STATE.....

PROSECUTOR

VERSUS

A M GACCUSED

SENTENCING

1. The accused, **A M G**, has pleaded guilty to the offence of manslaughter. Accordingly the accused is found guilty and convicted for the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code.
2. Before sentencing him, the court takes into account some information about him whether he is a first offender or not. In this respect the accused person is a first offender. In mitigation his counsel, Mr. Momanyi said the following:

1. *He is aged 36 years and had two children, but one died in 2004. His only son is 14 years old and lives, currently, with his uncle, the mother of the accused person. The son, therefore, need the presence of his father, for affection and maintenance.*
2. *The accused regrets the incident. It was not intended by him. The scuffle arose because the deceased was drunk. She held firm onto the private parts of the accused person, pat of that struggle he hit his beloved wife and she died. Out of fear and remorsefulness, the accused was confused that night and did not believe she was dead, he thought she was just a sleep due to drunkenness. He sent his brother to confirm the same. And upon being informed, he surrendered to police and was rought to court.*
3. *He is therefore extremely, remorseful, he pleads for maximum lenience from the court.*
4. *The counsel asked that in passing sentence the court mixes mercy and justice.*
5. *Finally, the accused prays for non-custodia sentence, to e with his only son.*
6. *He has been in custody since 20th September, 2011-4 years now.*

3. Probation report.

The accused is survived by his only son, **C G M**. He is remorseful and willing to reconcile with members of his community and the family of the deceased. He requests for leniency from the court to take care of his son.

4. The area chief and his assistant say the accused is a humble person with no criminal record in his life. The incident was unfortunate one. The report revealed the genesis of the tragedy. The deceased was given money to go and pay for merry go round but instead drank and became violent

- upon being asked. This led to the tragedy in which he lost her life.
5. Accordingly, you are hereby sentenced to two years non-custodial sentence to be supervised by the probation officer.
 6. It is so ordered.

Dated and delivered at KISII this 20th day of March, 2015.

C.B. NAGILLAH,

JUDGE.

In the presence of:

Otieno for the state

Nyawencha holding brief for Momanyi for the accused

Edwin Mongare Court Clerk.