



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KISII**  
**CRIMINAL MURDER CASE NO.39 OF 2011**

**REPUBLIC**

**VERSUS**

**PHANICE MOKEIRA SHEM.....ACCUSED**

**SENTENCING**

1. The accused person, **Phanice Mokeira Shem** was charged with the offence of **manslaughter contrary to Section 202** as read with **Section 205 of the Penal Code**. She pleaded guilty in a plea agreement process on 26<sup>th</sup> May 2015. The particulars are that on the 21<sup>st</sup> March 2011 at Bomonyama Sub-location, Nyamarache Division in Gucha South District, within Kisii County in the Republic of Kenya unlawfully caused the death of **JERIAH NYAMBEKI OTONDI**.
2. The court called for the probation report to help in the process of appropriate sentencing that the court wishes to mete out to the accused person.

At the time of writing this sentencing, the court has not had the benefit of this report as the same has yet been filed.

3. Be that as it may, the court will proceed with the task of sentencing the accused person on the basis of exercising its judicial discretion of its inherent jurisdiction to deal with the offence of this nature. The court will consider mitigation by the accused person and previous conviction if any.

In mitigation, the accused person says:

- i. **The deceased was provocative to the accused person, he was assaulted by the deceased first and foremost.**
- ii. **The accused is a first offender and has no previous criminal record.**
- iii. **The accused person is remorseful over the incident.**
- iv. **She is at the prime of her age at 23 years of age.**
- v. **She is a mother of two young children aged between 8 years and 5 years.**
- vi. **She is out on bond and does small business to cater for her children.**
- vii. **She urges the court for leniency and for non-custodial sentence.**

viii. **As she is out on bond, she relates well with others in society.**

4. Accordingly, the accused person is hereby released to serve one year on non-custodial sentence under the supervision of the Probation Officer of the area.

5. It is so ordered.

**Dated, signed and delivered in open court this 31<sup>st</sup> day of July 2015**

**HON. C. B. NAGILLAH**

**JUDGE**

**In the presence of:**

Sepele for the State

M/S Mogire for the Accused

Samuel Omuga: court clerk