



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 8 OF 2013**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**THOMA KISAKA.....ACCUSED**

**RULING ON SENTENCE**

The accused, Thomas Kisaka, was convicted on 15<sup>th</sup> July 2015 for the offence of manslaughter. He had been charged with murder of Paul Talusi Mugoya who died on 8<sup>th</sup> December 2012. After reviewing all the evidence this court found the offence of murder had not been proved beyond reasonable doubt but that of manslaughter had been.

In mitigation the accused through his defence counsel stated that he was remorseful; that the events leading to the death of the deceased occurred due to long hours of drinking and that the accused had no control over the crowd. He mitigated that he is aged 45 years and has six children who depend on him for upkeep; that he has been in custody since January 2012 and that he is a first offender. He asked this court to exercise its discretion and give him a lenient sentence.

The penalty for manslaughter is provided under section 205 of the Penal Code. This section gives life imprisonment as the upper limit of the sentence. I have considered that the accused is a first offender since the prosecution counsel did not have previous criminal records of the accused. I have considered the accused's mitigation and that he has been in custody for three years and seven months. I have also taken into account the unfortunate circumstances under which the deceased met his cruel death. With these factors in mind, I hereby sentence the accused, Thomas Kisaka, to serve ten (10) years imprisonment. His right to appeal has been explained to him. I make orders accordingly.

**Dated, signed and delivered this 21<sup>st</sup> day of July 2015.**

**S. N. MUTUKU**

**JUDGE**