



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.44 OF 2014

REPUBLIC

VERSUS

SAMWEL MWENCHA MEROKA - ACCUSED

SENTENCE

1. The accused person herein SAMWEL MWENCHA MEROKA, was initially charged with the offence of **Murder contrary to Section 203** as read with **Section 204 of the Penal Code**.
2. By a plea bargain agreement entered into on 7th July 2015 between the accused person and the state, the said charges were reduced to **manslaughter contrary to Section 202** as read with **Section 205 of the Penal Code**.

The particulars of the charge were that on 30th March 2014 at Gesura village in Nyamira North District within Nyamira County in the Republic of Kenya, unlawfully caused the death of JANE GESARE MWENCHA.

3. The accused person pleaded guilty to the said charge and was consequently convicted on his own plea of guilty. The facts leading to the commission of the offence pleaded to were that on 30th March 2014, the deceased was at her matrimonial home with her children when the accused approached them and picked a quarrel with the deceased and that later on, while the deceased was having breakfast, the accused attacked her repeatedly with a wooden stick filled with nails until he was stopped by one of his son who intervened in the assault.

The deceased bled profusely following the attack and was rushed to the hospital where she succumbed to her injuries.

4. A post mortem report produced as exhibit number 1 herein determined the cause of death as cardio-respiratory arrest secondary to subdural and epidural haemorrhage due to severe head injury.
5. In mitigation, Mr. Sagwe, counsel for the accused submitted that the accused was a first offender and the deceased was his own wife with whom they had 5 children and that the incident was accidental. He pleaded for leniency and a non-custodial sentence so that the accused could take care of his children who were still school-going.
6. The court ordered for a pre-sentence and victim impact report which was filed on 21st September 2015. The report states that the accused's family and community in general have no objection to him being released back to the society as he was a first offender who was not a security risk to

- them. They blamed the unfortunate incident on the accused's over-indulgence in alcoholic drinks.
7. I have taken into account the barbaric nature of the accused's attack on the deceased that caused her multiple injuries. I note that the actions of the accused were precipitated by over-indulgence in alcohol and the break down in the family value systems that promote respect for human life. The accused attacked his own wife and mother of his children in a very vicious manner over allegations of infidelity thereby killing her in cold blood. The actions of the accused person are inexcusable taking into account the fact that he, as the man, ought to have given protection to his wife from any harm or attack.
 8. Taking into account the fact that the accused is 52 years old I am still of the considered view that he ought to be given custodial sentence as a warning and deterrence to other members of the society who do not uphold respect for women and sanctity of human life.
 9. Taking into further consideration the fact that the accused has been in remand custody since April 2014, I sentence him to serve 4 years imprisonment back-dated to the date of his first court appearance being 7th April, 2014.
 10. It is so ordered.

Dated, signed and delivered in open court this 21st day of October, 2015

HON. W. A. OKWANY

JUDGE

In the presence of:

- Boiyon for the State
- Sagwe for the Accused
- Omuga: court clerk