

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 21 OF 2007

REPUBLICPROSECUTOR

VERSUS

ANTHONY KIBET CHEPKWONY ACCUSED

SENTENCE

Anthony Kibet Chepkwony, the accused herein, is before this court to face a charge of two counts of Murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars of the offences are that on 18th day of June, 2007 at Ndanai location in Bomet District within Rift Valley Province, he murdered **Nicholas Kipngetch Chepkwony and Benaline Chepkwony** in counts I and II respectively. Pursuant to the plea agreement dated 23rd January, 2014, the accused pleaded guilty to the lesser charge of manslaughter contrary to **Section 202** as read with **205** of the **Penal Code**. Upon conviction this court invited the accused's advocate to make submissions on mitigation. I also called for a Probation report on the accused.

I have considered both the facts in mitigation submitted by **Mr. Maengwe**, learned advocate for the accused and the Probation Officer's report. The deceased persons are the accused's daughter and younger brother. He committed the offences without malice aforethought but did so under the influence of alcohol and abuse of cannabis sativa. While in custody the accused underwent medical treatment and it would appear he has fully recovered from the above substances. From the mitigating factors, it is apparent that the accused is a first offender who is remorseful. The Probation Officer, Sotik District, prepared and filed a comprehensive Probation report on the accused. The report shows that the accused dropped out of school when his parents separated and was engaged as a tea plucker. It is also stated that he had matrimonial differences with his wife over fidelity issues. While plucking tea the accused started smoking bhang and became addicted to it. He also went to heavy drinking. On a positive note, the Probation officer recommended for the accused to be given a non-custodial sentence to enable him undergo the Kipsigis traditional cleansing ritual. The family, clan members, the community and the local administration are ready to accept the accused back to society. The accused has been in custody for the last seven (7) years. The long custodial period was due to the accused's mental ailment and the fact that his first advocate passed on. After a careful consideration of all the relevant factors I am convinced this is case fit to pronounce a non-custodial sentence. This will enable the accused to be rehabilitated and re-integrated into society. The home environment is conducive and ready to welcome him back. I hereby set the accused free from custody and order that he serves three(3) years probation in each count under the supervision of the Probation Officer Sotik, District. The sentences to run concurrently. Within this period, the accuse must exhibit good behaviour and follow the guidelines given to him by the Probation Officer.

Dated, signed and delivered in open court this 20th day of March, 2014.

J.K. SERGON

JUDGE

In the presence of

Mr. Lopokoiyit for Director of Public Prosecutions

Mr. Motanya advocate for Accused