

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 34 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

JOAN CHEROTICH NGENO.....ACCUSED

SENTENCE

JOAN CHEROTICH NGENO, the accused, was initially arraigned before this court on the information of the Director of Public Prosecution to face a charge of murder. Pursuant to the plea agreement dated 20th March 2014, the accused instead of undergoing a trial for murder, pleaded guilty to the lesser offence of manslaughter contrary to **Section 202** as read with **Section 205** of the Penal Code and was subsequently convicted. The particulars of the offence are that on the 3rd day of August 2013, at Kapkoros Village in Bomet District within Bomet County, she killed **JOSEPH KIPRONO MUTAI** *alias* **KIMALEL**.

Upon conviction and before sentencing, this court invited the accused to make submissions in Mitigation and also called for a Probation Report on the accused. This court was informed that the accused is a first offender who is married with two (2) children of tender age. Mr. Motanya, learned advocate for the accused, submitted that the accused committed the offence while acting in self defence having been provoked by the deceased. The learned advocate beseeched this court to pronounce a non-custodial sentence. I have further looked at the Probation Report which had earlier been filed. The report shows that the accused stabbed the deceased in self-defence as they both clashed over a knife that was on the accused's kitchen table which she managed to grab first. The incident occurred after the victim came to the offender's house in a violent manner demanding to be shown where his wife whom she had earlier fought with had gone to hide. There is information that both the accused's parents and those of the victim are taking steps to reconcile and have the victim's family compensated. The community is said to be receptive to the accused. They appreciate that the accused did not intend to kill the deceased save that she acted in self-defence when provoked by the deceased who was under heavy influence of alcohol. Since the home environment is not hostile and that there are measures being taken to reconcile the two families, I am convinced the most appropriate sentence should be non-custodial. I hereby order that the accused be set free from custody and to thereafter serve a two (2) year probation under the supervision of the Probation Officer, Bomet County. The accused should exhibit good behaviour during this period.

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

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J.K.SERGON

JUDGE

In the presence of:

Mr. Lopokoiyit for Director of Public Prosecutions

Mr. Motanya for Accused