

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
CRIMINAL CASE NO.18 OF 2011

REPUBLIC - PROSECUTOR

VERSUS

SIMON KIPKURUI NGETICH - ACCUSED

SENTENCE

The accused, Simon Kipkurui Ngetich, is before this court on the information of the Attorney General dated 19th April 2011 to face a charge of Murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on 16th April 2011 at Binyiny Village in Kericho District within Rift Valley Province he murdered Benard Kibet Ngetich. Before the case could proceed for hearing, negotiations started giving rise to the plea agreement dated 18th March 2014 whereof the accused pleaded guilty to the lesser charge of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.

This court then proceeded to convict the accused but before sentencing I called upon the office of the Director of Public Prosecutions to provide the accused's past criminal record and also invited the defense counsel to submit facts in mitigation. I further requested for a Probation Report on the accused person to be filed.

I have considered all the relevant factors. Miss. Kivali, the learned Prosecution counsel, informed this court that the accused is a first offender. Mr. Motanya, learned defence counsel asked this court to be lenient and pronounce a non-custodial sentence claiming that the accused was remorseful. He also pointed out that the offence was committed in the State of drunkenness. It was also stated that the accused converted to Christianity while in custody since 2011. I have also looked at the Probation Report filed by the Probation Officer, Kericho. In the aforesaid report, it is said that the accused is not remorseful. The post-mortem report shows that the accused stabbed the deceased severally causing him fatal injuries. The victim was the accused's brother. The probation report further indicates that the family are not yet ready to forgive the accused hence they are opposed to any other order giving the accused a non-custodial sentence. After a careful consideration of all the relevant factors, I think the appropriate sentence should be custodial. The home environment is hostile hence it may not be safe for the accused person to roam freely. The accused's family have expressly stated that they are still in shock hence the accused is not welcome home. I hereby sentence the accused to serve 10 years imprisonment.

Dated, signed and delivered in open court this 14th day of April 2014

J. K. SERGON

JUDGE

In the presence of:

- Miss. Kivali for Director of Public Prosecutions.
- Mutai holding brief for Motanya for Accused