



**REPUBLIC OF KENYA**

**High Court at Kakamega**

**Criminal Case 4 of 2005**

**REPUBLIC ..... PROSECUTOR**

**V E R S U S**

**SHEM ASHIONO HEZRON ..... ACCUSED**

**S E N T E N C E**

**SHEM ASHIONO HEZRON** was convicted of the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. Mr. Monda, counsel for the accused submitted that the deceased was the deceased's brother. He is married with a child and the deceased also left a family. He has been in custody for eight years. Counsel urged the court not to impose a custodial sentence so that the accused can take care of his children and those of his deceased brother.

From the evidence on record, it is clear that the accused had no intention to kill the deceased. He hit the deceased once on the head as he thought that the deceased was disturbing people who had gone to console them during a burial ceremony at their home. The deceased simply went to sleep and did not wake up.

The accused person first appeared in court on the 9<sup>th</sup> March 2005. He was arrested on 20.1.1005. He has been in custody for eight (8) years. I do find that the long period the accused has been in remand is enough punishment for the offence of manslaughter. This is one case that does not call for a custodial sentence. The eight years remand period is sufficient punishment. The accused shall be set at liberty unless otherwise lawfully held.

**Delivered, dated and signed at Kakamega this 7<sup>th</sup> day of February 2013**

**SAID J. CHITEMBWE  
J U D G E**