

REPUBLIC OF KENYA

High Court at Kakamega

Criminal Case 16 of 2008

REPUBLIC PROSECUTOR

V E R S U S

VINCENT MANYA 1ST ACCUSED

SIMON OMUGAMI 2ND ACCUSED

S E N T E N C E

The two accused persons were found guilty of the offence of murder contrary to **Section 203** as read with **Section 204** of the Penal Code. Mr. Ondieki, Counsel for the accused submitted in mitigation that the 1st accused is 35 years old and has a family. The second accused was arrested when he was 18 years. They are remorseful and have been in custody since 2008.

The court record shows that the 2nd accused person **SIMON OMUGAMI** was taken for age assessment on 7th May 2008. The Doctor assessed his age at 19 years old. The offence herein was committed on 8th January 2008. The likelihood of the 2nd accused having been underage at the time the offence was committed is excluded by the age assessment report.

I have read the judgment of Justice Kimaru and the circumstances of this case. I am also alive to the decisions of the Court of Appeal to the effect that the death sentence is inhuman and degrading. Although the offence that was committed is murder, I am satisfied that a long period of incarceration for the two accused will not assist in the circumstances. The 1st accused person is sentenced to serve **seven (7)** years' imprisonment while the 2nd accused is sentenced to serve **five (5)** years' imprisonment.

Delivered, dated and signed at Kakamega this 7th day of February 2013

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