



**REPUBLIC OF KENYA**

**High Court at Nakuru**

**Criminal Appeal 171 of 2011**

***(From original conviction and sentence in Criminal Case No. 1111 of 2010 of the Chief Magistrate's Court at Narok – W.N. NJAGE,SPM)***

**MOINA MPUSIA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

Moina Ole Mpusia was convicted of the offence of manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code** by Mr. Njage, Senior Principal Magistrate, Narok, and was sentenced to serve 10 years imprisonment on 13/7/2011. He is aggrieved by the sentence which he claims to be harsh and excessive. He went on to explain how he has realized his mistake; that he committed the offence while under the influence of alcohol, he has 12 children and two wives to look after and is remorseful.

The appeal was opposed. Learned State counsel, Mr. Marete submitted that the sentence was lenient taking into consideration the circumstances leading to the commission of the offence. The deceased was a younger brother of the appellant.

The deceased was injured while in the bar. According to the eye witness (PW1) the deceased was the first to enter the bar. The appellant entered later and sat near him, a quarrel ensued whereby the appellant attacked the deceased with fists. The deceased moved away to another table but the appellant followed him and stabbed him in the stomach, not once but twice.

When called upon to defend himself the appellant had no explanation to make as to why he seriously injured his own brother.

The sentence prescribed under **Section 205** for an offence of manslaughter is life imprisonment. Considering the circumstances of the offence, I am of the view that 10 years imprisonment is not harsh. At least the appellant still has his life, he will serve the sentence, come out and look after his family while the family of the brother has no father or husband. The appeal is not merited and is hereby dismissed.

**DATED and DELIVERED this 21<sup>st</sup> day of March, 2013.**

**R.P.V. WENDOH  
JUDGE**

**PRESENT:**

The appellant present in person

Mr. Chirchir for the State

Kennedy – Court Clerk