



REPUBLIC OF KENYA

High Court at Busia

Criminal Case 2 of 2012

REPUBLICAPPLICANT

VERSUS

SHADRACK ASHIANGA OGOJIRESPONDENT

29/4/2013

Before: Tuiyott J.

Court clerk – Kadenyi

Magoma for State

Masinde – Probation officer – present

Manwari for accused

MASINDE

The report is ready. (Accused is presented to Court).

MANWARI

I agree with contents of the accused.

MAGOMA

I have looked at the probation report. The accused is remorseful. We do not object to a non-custodial sentence.

COURT

Sentencing on 30/04/2013.

F. TUIYOTT

J U D G E

29/04/2013

SENTENCE

- 1) The accused pleaded guilty to the charge of manslaughter. The particulars of the offence being

that on the 11th January 2012 at Lukonyi estate, Busia Township he killed **SELINA NAMAI OGOJI**. Upon entering a conviction Kimaru J called for a probation report that would advise on appropriate sentence.

2) The Probation report dated 29th April 2013 was prepared by Mr. A. Masinde who presented it to Court on the same day. This Court has studied it and highlights the following conclusion:-

“That the accused father and entire family members were shocked of the incident given that these were young people who had not shown any sign of hostility to each other. That the accused is a young man aged 25 years old and a first offender who regrets what he did to his late sister. He pleaded for leniency from this Court.

That his father too pleaded for mercy and informed that he has put in place processes on how he will reintegrate the accused back in the family. His uncle after consulting their clan has similar sentiments.”

In the end the Probation officer recommended that he be placed on probation.

3) This Court has considered the report of the Probation officer and his recommendations. The Court has also considered that in mitigation the accused showed remorse and regret for his conduct. Whilst the circumstances of the incident and the post-incident conduct of the accused invites some leniency, this Court cannot overlook the fact that the death of the deceased was totally unnecessary and was caused by the uncontrolled temper of the accused person. This Court is reluctant to impose a purely non-custodial sentence.

4) The Court notes that the accused was arrested on the day following the incident and has been in custody since. That is a period of about 15 ½ months. This Court shall take account of that period. I do hereby sentence the accused to imprisonment of one (1) year with effect from today and he shall thereafter be placed on probation for a period of one (1) years. Orders accordingly.

DATED & DELIVERED THIS 30TH DAY OF APRIL 2013.

**F. TUIYOTT
J U D G E
30/04/2013**