

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

CRIMINAL CASE NO. 21 OF 2010

**REPUBLIC PROSECUTOR
VS
JOHN WAICHA KIRAGU.....ACCUSED**

ORDER ON SENTENCE

The accused herein, John Waicha Kiragu, was initially charged with the offence of murder contrary to section 203 as read with section 205 of the Penal Code. The accused is said to have unlawfully killed his wife Beatrice Kiragu on 4th July 2010 at Kiriku village in Nyeri District. However, when the case came up for hearing, the prosecution and the accused person's counsel entered into a plea agreement in which the accused pleaded guilty to the lesser charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. He was thereafter convicted for that offence on his own plea of guilty. What is now remaining is the sentence.

Mr. Makura, learned Senior State Counsel, informed this court that the accused is a first offender. Mr. Waruinge, learned advocate for the accused, beseeched this court to pronounce a lenient sentence against the accused. The learned advocate informed this court that the accused is remorseful and that he has left behind four children three of whom are below the age of 18 years. It is stated that he is the only bread winner. I have considered the mitigating factors and the fact that the accused pleaded guilty. The circumstances in which the accused committed the offence appear to puzzle me. The accused's wife had left for her parents. The accused followed her where he pleaded with her to come back. When the deceased refused to come back home, the accused was enraged to the extent that he took up a panga where upon he cut the deceased severally. The postmortem report indicates that the deceased sustained multiple cut wounds. The accused person acted savagely. He failed to control himself thus he acted beastly. The accused person is lucky in that this court accepted the plea agreement in which he pleaded guilty to the lesser offence of manslaughter rather than undergoing a trial on a murder charge. In my view the appropriate sentence in the circumstances of this case is a custodial sentence. I hereby sentence the accused person to serve 15 years imprisonment.

Dated and delivered this 8th day of July 2011.

J.K. SERGON
JUDGE

In open court in the presence of Miss Ngalyuka N/A Wahinya. The accused is present in person.

J.K. SERGON
JUDGE