

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA
Criminal Case 16 of 2003

REPUBLIC PROSECUTOR
V E R S U S
GERALD AMUDAVAGWA ACCUSED

S E N T E N C E

The accused person is charged with the offence of Manslaughter contrary to **section 202** as read with **section 205** of the Penal Code. The particulars of the offence are that on the 15th day of September, 2002 at Mwilisa village, Cherogere sub-location, East Busali Location, in Vihiga District, Western Province, the accused unlawfully killed Hassan Ongote. The accused pleaded guilty to the charge.

The deceased and the accused were brothers. They were both drunk on the material day and started quarrelling near their home. Their mother, Florence Luvai tried to intervene but the accused picked a steel rod and hit the deceased once on the forehead. The deceased suffered head injuries and died before he could be taken to hospital. A post mortem done on 19th September, 2002 by Dr. Jumba opined that the cause of death was severe head injury.

Mr. Anziya for the accused in mitigation submitted that the accused is remorseful. He is a Youngman and is married with one child. He is the sole breadwinner for the family and has been in custody for seven years.

Taking into account the circumstances of the case, I do find that the accused's act was irrational. The deceased was his brother and was not armed. There was no reason to attack him. I do take note of the fact that the accused has been in custody since September, 2002. The accused is hereby sentence to serve one year imprisonment.

SAID J. CHITEMBWE
J U D G E

Delivered, dated and counter-signed at Kakamega this 10th day of March, 2010

ISAAC LENAOLA
J U D G E