



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
CRIMINAL CASE NO. 35 OF 2009

REPUBLIC PROSECUTOR

VERSUS

HILLARY KIPLANGAT RONO ACCUSED

SENTENCE

The accused, **HILLARY KIPLANGAT RONO**, was convicted by this court 26th October, 2010 on his own plea of guilty of the felony of manslaughter contrary to **section 202** as read **with section 203** of the Penal Code, **Chapter 63** of the laws of Kenya. After mitigation against sentence by his advocate, Mr. J.K. Motanya, the court reserved sentence to today.

The charge against the accused was that the accused “*on the 6th day of October, 2009 at around 6.30p.m at Kaplong market in Sotik District within Rift Valley Province unlawfully caused the death of MERCY CHEPKORIR TANUI by stabbing her on the chest with a knife*”.

The facts that gave rise to the offence which the accused admitted were that the accused was along time boyfriend of **MERCY CHEPKORIR TANUI**, the deceased, and the relationship remained cordial until May, 2009 when the deceased was employed as a Barmaid and developed relationship with another man. This infuriated the accused who frequently quarreled with the deceased on account of this. Fights also ensued.

On 5th October, 2009, the accused went to the house of the deceased to find out why the deceased was in a relationship with another man. He quarreled with the deceased and in the process the deceased picked a knife which the accused grabbed and used to stab the deceased who screamed as a result of which neighbours came in response. Seeing this, the accused fled. The deceased died while undergoing treatment at Kaplong Hospital. Post mortem on the body of the deceased revealed that the deceased died due to cardiopulmonary failure occasioned by bleeding due to the injury sustained.

The accused was initially charged with the offence of murder contrary to **Section 203** as read with **section 204** of the Penal Code but this offence was subsequently reduced to manslaughter on 26th October, 2010.

In mitigation against sentence, the accused through his advocate, Mr. J.K. Motanya told the court that the accused was remorseful and that he is a young man of 21 years who had dropped out of school at standard 7. He is the 4th child in a family of ten who conducted hawking business and supported his parents and siblings. He sought a lenient sentence.

I have considered the circumstances under which the offence was committed and the fact that it carries a maximum sentence of life imprisonment. I have also duly considered the mitigation and the fact that the accused is a first offender who has been in custody for a period of one year and a couple of months.

The accused destroyed the life of a human being who was his friend for sometime. He had repeatedly quarreled and fought with the deceased as he could not come to terms with the loss of what seemed to be the love of his life. He was unable to understand that he could not force the deceased to remain his girlfriend if she did not want to. Instead of accepting the rejection and carrying on with his life, he pursued the deceased relentlessly until she snapped and took the knife which she was unable to use against the accused as the latter grabbed it and used to stab her. This proved fatal. The accused could have gotten rid of the knife but due to ostensible bitterness on his part, he stabbed her. In the light of these circumstances and the mitigation against sentence, what sentence is appropriate for the offence?

After weighing one thing with another, I have come to the conclusion that the offence must be punished with a custodial sentence. The accused acted in a brutal manner when his life was not exposed to danger. He grabbed the knife which he could have kept away. Anger seems to have gotten the better of him due to the relationship that had come to an end.

The sentence that commends itself to me in the circumstances of this case is imprisonment for a period of ten years. Society must be protected from violence and it would be wrong for this court to send the wrong signals by giving a light sentence that does not deter the repeat of such offence and serve also as a warning to others that society does not expect violence where one is not exposed to danger. The accused is sentenced to imprisonment for a period of ten (10) years.

DATED at KERICHO this 23rd day of November, 2010

G.B.M. KARIUKI, SC
RESIDENT JUDGE

COUNSEL APPEARING

Mr. J.M. Motanya Advocate, instructed by Messrs Motanya & Co. Advocates appeared for the accused
Mr. Kiprop, State Counsel from the Attorney General's Chambers appeared for the State
Court Clerk – Mr. Koech