



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
ATKISII**

Criminal Appeal 280 of 2006

SIMION CHACHA MAKENGE APPELLANT

VERSUS

REPUBLIC RESPONDENT

**(From original conviction and sentence in Senior Principal Magistrate's Court at
Migori Manslaughter Case No.4 of 2005**

by E. O. AWINO EQS – P.M.)

JUDGMENT

The appellant was charged with manslaughter, having unlawfully killed his son, Masero Chacha Makenge, hereinafter referred to as “*the deceased*” on 7th January, 2005 by slashing him with a panga. He was sentenced to 10 years’ imprisonment. The appellant was aggrieved by the said sentence and preferred an appeal against the same.

The evidence on record shows that on the material day the deceased and his wife went to plough a certain parcel of land using oxen. When they returned home, the appellant asked the deceased’s wife where the oxen had gone to and she told him that they were ploughing. The appellant got annoyed that his son had not heeded his advice not to plough that parcel of land and the appellant vowed to teach the deceased a lesson. Several hours later, as the deceased was going to bath in a stream, he was attacked by the appellant with a panga. The deceased was rushed to a hospital but he died the following day. A post mortem report showed that the cause of the death was severe haemorrhage due to severed right cubital fossa vessels.

In his defence, the appellant alleged that his son had attacked him but that defence was rightly rejected by the trial court.

From the facts of the case, the sentence that was passed by the trial court cannot be said to be harsh or excessive. I see no basis of interfering with the same and dismiss this appeal.

DATED, SIGNED and DELIVERED at KISII this 28th Day of July, 2008.

D. MUSINGA

JUDGE.

Delivered in open court in the presence of:

Mr. Kemo Senior Principal State Counsel for the Republic.

Appellant present.

D. MUSINGA

JUDGE.