



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NYERI**

**Criminal Appeal Case 42 of 2004**

***(Appeal from the original Conviction and Sentence in Criminal Case Number 1905 of 2003 in the Senior Resident Magistrate's Court at Murang'a by F. F. Wanjiku – S.P.M. dated 18<sup>th</sup> December 2003)***

**JOHN KAMAU KARANJA.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**J U D G M E N T**

John Kamau Karanja the Appellant herein was convicted by the Senior Principal Magistrate Murang'a on his own plea of guilty to the offence of manslaughter contrary to **Section 202** of the Penal Code. He was sentenced to serve 15 years imprisonment. The Appellant has now brought a petition of appeal contending *inter-alia* that He pleaded guilty to the charge without knowing the contents of the charge and that the sentence imposed against him was harsh and excessive.

From the record of the lower court, it is evident that the charge was read over and properly explained to the Accused and that in response thereto the Accused said "It is true, I killed Him." The facts were also read out to the Accused and a P3 form and post mortem report produced and the Accused again admitted the facts to be correct. The Appellant's plea of guilty was therefore clear and unequivocal and his allegation that He did not know the contents of the charge cannot hold. I find that the Appellant's conviction was proper.

As regards the sentence, the trial magistrate does not appear to have taken into account the circumstances of the offence which were that the offence was committed during a drinking spree and that no weapon appears to have been used. The trial magistrate also does not appear to have seriously taken into account the fact that the appellant had pleaded guilty to the charge. I find that the sentence of 15 years was in the circumstances harsh and excessive.

I do therefore dismiss the appeal against conviction but allow the appeal against sentence. I set aside the sentence of 15 years and substitute it thereof with a sentence of 7 years imprisonment.

***Dated, signed and delivered this 31<sup>st</sup> day of January 2007.***

**H. M. OKWENGU**

**JUDGE**