

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU
Criminal Appeal 196 Of 2004

SOLOMON NGARUIYA GAITHO APPELLANT

VERSUS

REPUBLICRESPONDENT

JUDGMENT

The Appellant Solomon Ngaruiya Gaitho was charged, before the Chief Magistrate's Court at Nakuru with the offence of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.

After a full trial the Appellant was convicted and sentenced to serve five (5) years imprisonment. The facts of the case may be largely stated.

On the 7th December 2001 at Sinendet Village the Appellant and the deceased were drinking illicit brew at a drinking den. They initially bought each their own drinks and in the course of drinking the Appellant started pressurizing the deceased to buy for him a drink. An argument ensued on who should buy the other a drink and the Appellant who was armed with a panga slashed the deceased to death.

It is on the basis of that evidence that the Appellant was convicted and sentenced to five (5) years imprisonment.

The Appellant urged the court to reduce the sentence on account that he has contracted a deadly T.B disease and he has a family that also depends upon him. The Appellant does not appeal against the conviction.

On the part of the State, this appeal was opposed and the learned Deputy Public Prosecutor pressed for the Appeal to be dismissed as lacking in merit as the Appellant who hacked the deceased to death for such a petty issue as a disagreement of who should buy the other beer was lucky to get away with as sentence of five (5) years.

I have carefully considered the facts of this case and the appeal. I am not satisfied that this court can interfere with the sentence imposed by the learned Senior Resident Magistrate.

The Appellant wantonly took away the precious life of the deceased over a very petty issue and considering that the maximum sentence for this offence is life imprisonment, I consider the sentence of five (5) years appropriate.

The Appellant is therefore dismissed as lacking merit.

Judgment read and signed on 17th March 2006.

MARTHA KOOME

JUDGE