



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MACHAKOS**  
**Criminal Case 16 of 2006**

**REPUBLIC .....PROSEUCTOR**

**VERSUS**

**PAUL MBITI MUTUNE.....ACCUSED**

**Coram**

**D.A. Onyancha ,J**

**Principal State Counsel –Mr. Omirera**

**Advocate for accused – Soo/ Muriungi**

**CC- Mutinda**

**SENTENCE**

The facts show that accused did not know the deceased who was drinking in the same bar with him. Deceased is not shown to have provoked the accused. He is not even shown to have talked to accused when accused directed a comment at him that he accused did not like police officers which deceased was one. The accused stood up from his own chair, moved to where deceased sat quietly drinking his beer and violently pushed him backwards felling him by deceased's back and head. Deceased got seriously injured when his head contacted the floor violently. He was taken to hospital the next day but he succumbed to the head injury. The accused disappeared until he was arrested a year later. The accused claims that he was very drunk and this is not denied and is likely to be true. But drinking does not excuse him from the crime he committed apart probably from reducing the killing from murder to manslaughter. Accused will therefore be responsible for killing the deceased for no reason at all. He has been in remand for only about two months. He is sorry. He is a first offender and prays for leniency. The court has considered all the mitigating factors and circumstances but is of the opinion that accused shall serve a jail sentence of 6 (six years). It is so ordered.

D.A.Onyancha

JUDGE

3/5/2006