

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MACHAKOS

Criminal Case 35 of 2005

REPUBLIC.....
.....PROSECUTOR

VERSUS

1. PETER MUTUA MULI

2. RICHARD MWEMA MUTHUSI MUTINDA

3. DOMINIC MWALA NZUKI.....
.....ACCUSED

26.6.2006.

Coram

D.A. Onyancha, J

Advocate for all accused – Mbithi

Principal State Counsel for Republic – O’mirera

CC-Mueni

SENTENCE

The three accused were joined by many other villagers to beat the deceased who was caught stealing maize cobs in the accused’s shamba. After doing so, no one took the deceased to hospital. Instead she was left outside in the cold over night. By the next morning the deceased had died out of the serious injuries inflicted on her using blunt object probably stones or sticks. It is clear that the accused had a right to protect their property but they had no right to kill the deceased who in any case made attempt to escape. The accused used unnecessary force and killed the deceased – a woman – and they must now take responsibilities. The deceased did not fight back and should have been arrested and taken to police to be charged with theft instead of being killed. I have considered all the mitigating factors inclusive of the period of 12 months the accused have been in remand. It is the decision of the court that each accused should serve a jail sentence of 2 (two) years. It is so ordered.

D. A. ONYANCHA

JUDGE

26.6.2006