

REPUBLIC OF KENYA
HIGH COURT OF KENYA AT MACHAKOS
CRIMINAL CASE 39 OF 2005

REPUBLIC.....PROSECUTOR

VERSUS

KASEKI NZALU NDIKO.....ACCUSED

14/6/06

Coram

D.A. Onyancha,J

Advocate for accused- Mutua

Principal State Counsel for Republic –O’mirera

CC-Mueni

SENTENCE

The accused’s charcoal had been disappearing in the bush where he used to burn it. He did not know who was responsible. On the material day, it appears he found deceased taking away his charcoal and apparently concluded that he had been doing so in the past. He set upon the deceased and beat him to death. The weapon he used is not known but it was capable of causing fractures and crushing deceased’s testicles. He is sorry and remorseful. He prays for leniency and has been in remand for 9 months. The court has considered the mitigation and finds that the accused had no adequate reason to kill the deceased. He could have reported the theft of his charcoal to the police or clan elder or even chief. Setting upon the deceased to beat him to death was taking the law into his own hands. He eventually has to bear the responsibility of the deceased’s death. Considering all the mitigating factors into account and the period the accused has been in remand, the court sends him to jail for four (4) years. It is so ordered.

D.A. ONYANCHA

JUDGE

14.6.2006