

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
Criminal Case 3 of 2004

REPUBLIC PROSECUTOR
- Versus -
DAVID GICHOB I MWANIKI ACCUSED

Coram: Before Hon. Justice Mwera
Ms Mwaniki for State
Maru for Accused
Court clerk – Kazungu

S E N T E N C E

The accused was charged under section 202 as read with section 205 Penal Code in that on the night of 31st December 2003 and 1/1/2004 at Bombolulu village Mombasa he unlawfully caused death of Masha Kahindi Ziro. He pleaded guilty.

The prosecution told the court that on the subject night the accused with others in the neighbourhood were ushering in the New Year. They got drunk and a row erupted amongst them. That the deceased was among those who intervened to stop the row. That the accused struck the deceased on the head with a piece of wood and disappeared. The deceased was taken to a nearby medical facility and then transferred to the Coast General Hospital for treatment. He later died. A post mortem report revealed that the death was because of intra-cranial bleeding due to a fractured skull that had been caused by a head blow. The accused was arrested and charged. The accused admitted the facts reproduced by the State. It did not have his past criminal records and the court was left to treat the accused as a first offender.

In mitigation Mr. Maru referred to the row that arose among revelers/neighbours due to drinks and that it was a tragic and regrettable incident. That the accused showed his deep remorse by visiting the deceased in hospital and even paying the bills there. That he was 22 years of age, the sole breadwinner of his parents, siblings and a young wife and child, and so did not deserve a custodial sentence.

Having considered all the above the accused is ordered to serve twenty four (24) months imprisonment.

Orders accordingly.

Delivered on 25th October 2005.

J.W. MWERA
JUDGE