

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
Criminal Case 48 of 2004

REPUBLIC PROSECUTOR
- Versus -
WILLIAM KEPHER ACCUSED

Coram: Before Hon. Justice Mwera
Ms Mwaniki for State
Sangoro for Accused
Kazungu - Court clerk

S E N T E N C E

The accused was charged with an offence under Section 202 as read with Section 205 of the Penal Code in that on 17/7/2004 at Maweni Kongowea, Mombasa he unlawfully caused the death of one Benard Masika. He pleaded guilty and admitted the facts reproduced by the learned state counsel. It all began as a fracas between two people, seemingly neighbours. The accused held the deceased down and sat on him. The deceased held the accused by the trousers and an exchange of blows followed. Still on top of the deceased the accused held him by the neck and tried to strangle him. A neighbour called Oduor separated them and put the deceased away in his room. The deceased found his way via the roof and threw a stone at the accused. When he came down the fracas continued whereby the accused threw the deceased on a wall. He was injured. The accused was taken to a local hospital. He was admitted and then operated on. He died. A post mortem report revealed that the deceased died of a ruptured stomach. The accused was then charged.

The prosecution had no previous records of the accused and asked the court to treat him as a first offender.

In mitigation Mr. Sangoro told the court that his client was remorseful. And that he was the breadwinner of his aged parents, his siblings plus his own family.

The court considered all the above and considered that the accused be and is hereby ordered to serve thirty six (36) months imprisonment.

Orders accordingly.

Delivered on 17th October 2005.

J.W. MWERA
JUDGE