

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
Criminal Case 10 of 2003

REPUBLIC PROSECUTOR
- Versus -
MUDALA OKUKU ODINDO ACCUSED

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

S E N T E N C E

The accused was charged under section 202 as read with section 205 of the Penal Code in that on the night of 20th/21st October 2002 at Maweni, Mombasa he unlawfully caused the death of Consolata Ngesa. He pleaded guilty and admitted the facts to the effect that the two were husband and wife of over 20 years. That when they got home on the material night a row erupted between them. The accused took a stick and beat his wife (the deceased) until a neighbour fell in between and seemingly that ended the fight that night. After 2 days the accused took the deceased to hospital and she died there. A post mortem report attributed the death to pulmonary oedema due to pneumonia which resulted in lung congestion. This was linked to the injuries the accused inflicted on the deceased. He was arrested and later charged.

The prosecution did not have the accused's past records so it asked the court to treat him as a first offender.

Mr. Mokaya stated in mitigation that the accused was truly remorseful in that his acts resulted in the death of wife with whom he had four children. That the accused had been in remand for some 3 years during which his children were only being looked after by his aged parents in rural Busia. That the court ought to consider the sentence that would give him a new lease of life and particularly with giving care to the now near destitute children.

The court having considered all the foregoing and orders the accused to serve eighteen months imprisonment.

Sentence accordingly.

Delivered on 8th November 2005.

J.W. MWERA
JUDGE