

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

FROM ORIGINAL CONVICTION AND SENTENCE IN CRIMINAL

**CASE NO. 170 OF 2000 OF THE CHIEF MAGISTRATE'S COURT AT
NAIROBI**

SAMUEL KIHONGE KAMURA.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The appellant was convicted of the offence of manslaughter c/s 202 of The Penal Code and sentenced to five years imprisonment. Aggrieved by the said conviction he appealed.

Pw1 worked with the deceased in the same butchery. The appellant had worked with them before. On the day of this offence, the appellant came to the butchery and a quarrel ensued between him and the deceased. The deceased hit the appellant with an iron rod in self defence. The appellant reached for a knife in the butchery and at this sage pw1 ran out.

The appellant was seen holding the blood stained knife. The deceased was found lying down with a chest injury. He was rushed to the hospital but pronounced dead on arrival. The knife was recovered and appellant charged. The doctor who performed the post mortem on the body of the de eased confirmed the cause of death to be stab wound to the chest. The Government analyst also confirmed that the blood sample on the knife matched that of the deceased.

It is true that no one saw the appellant stab the deceased but only him and the deceased remained in the butchery when pw1 ran out. He was also seen holding the knife which was blood stained. It was the same knife that had been used to stab he deceased as the blood thereon matched that of the deceased while that of the appellant was of a different group The evidence pointed at the appellant to the exclusion of any other person. The offence was proved beyond doubt. The sentence was not excessive.

This appeal lacks merit. The same is hereby dismissed.

Orders accordingly.

MBOGHOLI MSAGHA

JUDGE

11/12/2002