



**Republic v Mukaisi (Criminal Case 55 of 2018)
[2024] KEHC 9346 (KLR) (22 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 9346 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 55 OF 2018
SC CHIRCHIR, J
JULY 22, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

ATANAS MAKHUNI MUKAISI ACCUSED

SENTENCE

1. The Accused herein was convicted of the offence of manslaughter. Thereafter the Director of probation and Aftercare services, Kakamega County, carried out a social inquiry into the Accused’s background and current circumstances. The Parties were later given an opportunity to submit.

Accused’s Submissions

2. Through his advocate Ms. Mburu, the Accused submitted that he is a 40 year- old father of two; that he is remorseful, and that he turned himself in to the police. He also stated that he was an “isukuti” dancer and used to mobilize and lead the dancing group around during performances; that he had been of good conduct while in remand and that he has been in custody for 6 years. That considering his age and his contribution to society, he deserved a non-custodial sentence. He sought for leniency.

Prosecution’s Submissions

3. The prosecution has submitted that the Accused was involved in some illegal activities and it is this illegal activity that triggered the events leading to the demise of the deceased. It is further submitted that the accused was involved in the selling of “changaa” (local brew) and therefore it cannot be said that he was of a good standing in the society.
4. The prosecution further pointed out that the deceased was very drunk at the time ,and therefore could not have posed any threat to the Accused to warrant such excessive reaction from the accused. The prosecutor urged the court to pass a sentence that would speak to the sanctity of life.



Social Inquiry Report

5. The social inquiry report depicts the Accused as a good standing member of society; that he had made significant contribution to society and that he was held in high esteem .However, the community abhorred his changaa selling business.
6. I have considered the rival submissions, as well as the social inquiry report. The accused is a first offender, remorseful and surrendered to the police upon learning of the deceased's death.
7. The above three factors are mitigating factors pursuant to the Judiciary Sentencing policy guidelines. The social inquiry report, shows that the Accused had a good standing in the society and was making a positive contribution to the community.
8. However, the deceased was deprived of his basic right to life and as pointed out by the prosecution ,the deceased did not pose a serious threat to him, considering deceased's drunken state then. The accused only needed to run away from the deceased. These circumstances aggravate his crime.
9. Considering all the foregoing, I hereby sentence the Accused to 10 years in prison. The sentence will take effect from 7/9/2018 being the date that he was first arraigned in court.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 22ND DAY OF JULY, 2024.

S. CHIRCHIR

JUDGE

In the presence of :

Godwin- Court Assistant.

Ms Osoro for DPP

Accused- present.

