



**Republic v Gitau (Criminal Case 23 of 2018)
[2023] KEHC 700 (KLR) (9 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 700 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 23 OF 2018
MM KASANGO, J
FEBRUARY 9, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

MICHAEL GITAU RESPONDENT

SENTENCE

1. Michael Gitau (Michael), was charged through the information dated 12th April 2018 with the offence of murder. He pleaded not guilty. By a plea bargain agreement dated 6th October, 2022 Michael agreed to plead guilty to the offence of manslaughter. On the statement and particulars of offence in the information dated 6th October, 2022 being read to Michael pleaded guilty to the offence of manslaughter.

Facts

2. The facts of the offence are that on 30th March, 2018 on his way from performing an errand for his employer, Nzomo Mbunguyu, deceased met Michael who was scavenging for scrap metal by digging up objects made of copper. The deceased approached and asked Michael why he was digging. Deceased made a phone call to some alerting them of what Michael was doing. Michael accosted deceased then hit him on the head with a mattock. Deceased was thereafter taken to hospital bleeding profusely. He later died due to that injury. Michael was arrested at the scene.

Mitigation

3. Michael submitted that he is remorseful of causing death of the deceased. He stated he is the sole bread winner of his family, his father having died while he was in custody.
4. Michael was born in 1969.



Analysis

5. The victim's family could not be traced and accordingly, there is no victim impact report.
6. I am satisfied that there are no aggravated circumstances leading to the deceased's attack, that is, there was no evidence that Michael planned and deliberated on the attack of deceased. Michael was obviously undertaking a criminal act of taking metal made of copper which did not belong to him. He did not appreciate deceased's inquiry on his action and in his attempt to conceal that criminal act and perhaps also in anger he fatally hit the deceased.
7. Having regard to the circumstances of the offence set out above, the moral blameworthiness of Michael with the primary objective of denunciations of the criminal act, deterrence and the need to rehabilitate Michael and considering the mitigation, I will impose a sentence of 8 years imprisonment.

Conclusion

8. Bearing the above in mind, I hereby sentence Michael Gitau for 8 years imprisonment with credit of 5 years spent in custody for the murder of Nzomo Mbuguyu deceased.

RULING DATED AND DELIVERED AT KIAMBU THIS 9TH DAY OF FEBRUARY, 2023.

MARY KASANGO

JUDGE

In the presence of:-

Coram:

Court Assistant : Mourice/Julia

For DPP : -

Michael Gitau – accused Present

For accused Michael Gitau:- Ms. Munyungu

Instructed by DPP:- Mr. Gacharia

RULING delivered virtually.

MARY KASANGO

JUDGE

