



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CRIMINAL CASE NO. 83 OF 2019**

**EDITH ATIENO CHICHOLI .....ACCUSED**

**VERSUS**

**DPP ..... REPUBLIC**

**RULING ON SENTENCE**

The accused **EDITH ATIENO CHICHOLI**, was originally charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, cap 63 Laws of Kenya. She however, entered into a plea bargaining agreement with the state and the same was filed in court on 15.3.2021. On 16.3.2021, she pleaded guilty and was accordingly convicted of the lesser charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code, Cap 63 Laws of Kenya.

She also admitted the facts to the charge of manslaughter as was read out by the prosecution side. The plea agreement together with the relevant exhibits including the post mortem form have been produced herein.

Upon conviction for the offence of manslaughter, the accused, through his advocate has offered her mitigation. Salient factors therein are that she is a mother of 2 aged 1 and 8, with the older one staying with the grandmother in the village, while she is in custody with the small one. That accused's mother is ailing. She expressed remorse and pleaded for mercy, a second chance and a non-custodial sentence.

In view of the mitigation, this court called for a probation officers report, which was duly filed in court on 2.6.2021 (dated 31.5.2021).

I have considered the mitigation of the accused, the facts of this matter, and also the Probation Officers (pre-sentence) report. Worth noting herein are as follows:-

- i) An innocent life of a young man aged about 26 years was lost in this incident.*
- ii) That whereas the accused and her family have expressed remorse, they have not expressed the same to the family of the deceased.*
- iii) Whereas the accused and her family have pleaded for leniency, the family of the deceased (victim) have urged for a deterrent sentence.*
- iv) The accused has saved the court's time in agreeing to the plea bargaining agreement and pleadings guilty to the lesser charge of manslaughter.*
- v) That the accused has been in custody awaiting determination of her case from 20.12.2019, about 1 year and 6 months.*

Under section 205, of the Penal Code;

***“Any person who commits the felony of manslaughter is liable to imprisonment for life.***

Taking all the above observations, I am convinced that the accused deserved a custodial sentence. I accordingly sentence the accused to serve 5 years imprisonment. This sentence shall run from the date of this sentence (today's date). Right of appeal 14 days.

**D. O. OGEMBO**

**JUDGE**

**7.7.2021.**

Court:

Ruling read in court (on-line) in presence of Mr. Gichuki for the accused (Langata Woem), Ms. Gichuki for the state.

**D. O. OGEMBO**

**JUDGE**

**7.7.2021.**