



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYAHURURU

MURDER CASE NO. 13 OF 2018

REPUBLIC.....PROSECUTOR

-VERSUS-

BERNARD KARANJA NG'ANG'A alias BENNA alias NYAMBANE.....ACCUSED

RULING ON SETENCING

1. Bernard Karanja Ng'ang'a has been convicted of offence of **manslaughter contrary to Section 202 as read with section 205 of the Penal Code Cap.63 Laws of Kenya**. The State Counsel told court that he can be treated as a first offender as there no previous records.

2. In mitigation Ms. Ndegwa for defence told court that, accused is 40years so old, married with two young children. His wife is un employed and he is sole bread winner and also takes care of his widowed mother. That he has been in custody since 2018 a period of about 31/2 years.

3. Thus she sought a none custodial sentence.

4. In rejoinder, state counsel Dorcas Rugut Ms. submitted that the fact that he has been in custody does not justify a none custodial sentence.

5. In Supreme court petition 15 as consolidated with no 16 of 015 the court some of guidelines in sentencing. These are;

(a) Age of the offender;

(b) Being a first offender;

(c) Whether the offender pleaded guilty;

(d) Character and record of the offender;

(e) Commission of the offence in response to gender-based violence;

(f) The manner in which the offence was committed on the victim;

(g) The physical and psychological effect of the offence on the victim's family;

(h) Remorsefulness of the offender;

(i) The possibility of reform and social re-adaptation of the offender;

(j) Any other factor that the Court considers relevant.

6. The court has taken same into considerations plus mitigations tendered. The accused does not show any remorse at all in his mitigations. His conduct after the fight in the bar of attacking the deceased along the way while he was very drunk plus going to the deceased parent home to threaten to finish him because of Kshs.670/ was to say the least un justified.

7. He inflicted fatal injuries though provoked in the bar, he ought to have waited till morning but not escalate fight all the way to deceased

parent home.

8. Thus he does not deserve a non- custodial sentence thus the court makes the following orders;

i. The accused having been in custody for 3 years and about 2 months since he was arrested in July 2018, he will serve 3 more years imprisonment.

Dated, Signed and Delivered at NYAHURURU this 7th day of October, 2021.

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CHARLES KARIUKI

JUDGE