



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT KERICHO**

**HIGH COURT CRIMINAL CASE NO.9 OF 2018**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**GILBERT KIPKOECH METET.....ACCUSED**

**J U D G M E N T**

1. The Accused Person in this case GILBERT KIPKOECH METET was charged with Murder Contrary to Section 203 as read WITH Section 204 of the Penal Code
2. The charge was reduced to one of Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code following a successful plea bargain agreement signed by the Accused Person on 16/3/2021.
3. The particulars of the charge were that on 26/5/2018 at Chebirirbei Village, Chebirirbei Sub-Location in Belgut Sub-County, within Kericho County, the Accused Person unlawfully killed BERNARD KIBET METET.
4. The facts of the case were as follows:-

*On the 26th May, 2018 at about 8.00 pm, at Chebirirbei Village, Chemamul Location, the Deceased was in his parent's house taking dinner. The Accused who is his brother arrived there armed with a rungu and was drunk.*

*The Accused then called his brother the Deceased outside. The Deceased responded and went outside and met the Accused. They had a short talk which led to an argument over subdivision of family land.*

*The Accused Person then assaulted the Deceased on his head using the rungu that he had several times as they were arguing.*

*The Deceased then fell down and became unconscious. While the Accused ran away from the scene.*

*The commotion attracted the neighbours, parents and other brother who dashed to the scene.*

*They found the deceased lying down unconscious and bleeding from the head.*

*The deceased's brother who went to the scene called his other brother who was at the market place and informed him of what had happened and asked him to dash there with two boda boda motor cycles and take the deceased to hospital.*

*His brother arrived at the scene with two motor cycles as he was instructed and they took the deceased to hospital at Kebeneti Dispensary where a first aid was administered and were referred to Sigowet Sub-District Hospital.*

*His condition worsened and were referred to Litein AIC Hospital for scanning and X-Ray then taken to Kapkatet District Hospital where he was admitted there but died while undergoing treatment.*

*The body of the deceased was then transferred to Kapkatet District Hospital Mortuary where a post mortem was conducted by Dr. Peter Koech who formed the opinion that the deceased died of head injury in patient with multiple injuries secondary to (both blunt and sharp) assault.*

*Meanwhile members of the public arrested the accused near his home after receiving news of the deceased's death and took him to Sosiot Police Station where he was re-arrested and detained for investigations.*

*After the investigations were complete, the Accused Person was later charged with the offence of murder Contrary to Section 203 as read together with Section 204 of the Penal Code.*

*This has now been reduced to the offence of Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code pursuant to a plea bargaining agreement dated 16/3/2021.*

5. The Accused Person said in mitigation through his Advocate that he is remorseful for the offence he committed and further that he was under the influence of alcohol at the time of the commission of the offence.
6. Further, the Court was told that the Accused Person has a young family to take care of since his parents have died.
7. The Probation Officer filed a Pre-sentence Report which I have duly considered. The report states that the Accused Person and the deceased were always drunk and they used to fight from time to time.
8. The offence the Accused Person committed is a very serious one and the maximum sentence provided is life imprisonment.
9. I have considered the fact that the Accused Person is a first offender. I have also taken into account that the Accused Person pleaded guilty and saved the Court's time for trial.
10. I accordingly sentence the Accused Person to five (5) years imprisonment.
11. The period the Accused person has been in custody to be taken into account when computing the five years
12. Right of appeal against sentence – 14 days explained.

**DELIVERED, DATED AND SIGNED AT KERICHO THIS 1ST DAY OF OCTOBER, 2021.**

**A. N. ONGERI**

**JUDGE**