

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

HIGH COURT CRIMINAL CASE NO 91 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

JOSEPH NCEBERE M'AKWALU.....ACCUSED

SENTENCING

1. Have considered the representation by learned Counsel. I have considered that the accused is a 75 years old man who is remorseful for his action.
2. That he has been in custody since October, 2018.
3. I have considered that it is his son who lost his life as a result of the accused's act. I have taken into consideration the Pre-sentence report on record which is positive of the accused.
4. Most importantly I have considered that it is the deceased who not only provoked but also attacked the accused first. The act of the accused may have been excessive but considering his age and that the deceased, a young energetic man, was armed with a rungu and was threatening the accused, in his frail age, he may have been compelled to use the weapon he did to stop the accused.
5. Taking all the foregoing and that the accused was the one who was injured first I sentence the accused to 6 months probation.

A. MABEYA

JUDGE

05/03/2019