



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MAKUENI

HCCR NO. 13 OF 2019

REPUBLIC.....PROSECUTION

VERSUS

COSMAS MULI MUTHUSI.....ACCUSED

RULING ON SENTENCE

1. **Cosmas Muli Muthusi** the accused was initially charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The same was on 3rd October 2019 reduced to manslaughter contrary to section 202 as read with section 205 of the Penal Code following a plea bargain agreement.

2. The accused and deceased were father and son aged 61 years and 38 years respectively. The circumstances leading to the painful death of the deceased are quite bizarre. The reason given for this behavior was food and a phone which was to be charged. The deceased was still single and used to come for food at his parents' house. The mother who prepared the food seemed not to have any problem with this. It however irked the father who is the accused herein.

3. The post mortem report (EXB1) shows that the deceased died as a result of respiratory failure secondary to multiple penetrating stab wounds. The wounds were in the following areas:

Posterior and Anterior triangles of the head

Anterior chest wall (right side)

Supraumbilical region

Right shoulder

Right hypochondrial region

Severed trachea

Right haemothorax

Both lungs severed and collapsed

Severed common carotid artery

Deep penetrating abdominal wound

4. There is no single evidence to show that the accused was at all injured by the deceased. One is left wondering whether there was something more to the supper eating and phone charging. In as much as the family wants the accused back home, this court has to consider the brutal death suffered by the deceased who was a real son to the accused. Even if it was to teach him a lesson one or two stabs would have been sufficient to pass the message. He inflicted ten (10) deep stab wounds. Quite chilling.

5. I have considered all the circumstances of this case namely: accused's age; the period he has been in remand custody (*six months*); mitigation; relationship between the accused and deceased and come to the conclusion that justice demands for a custodial sentence.

6. Accused is sentenced to seven (7) years imprisonment which he will serve as follows:

i. First five (5) years to be served in prison.

ii. The last two (2) years to be served on probation under the supervision of the Makueni county probation officer

Orders accordingly.

Delivered, signed & dated this 14th day of November 2019, in open Court at Makueni.

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Hon. H. I. Ong'udi

Judge