



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**HIGH COURT CRIMINAL CASE NO. 26 OF 2015**

**LESITT, J**

**REPUBLIC.....PROSECUTION**

**VERSUS**

**GEORGE KIARIE NGERERE.....ACCUSED**

**RULING ON SENTENCE**

1. The accused **GEORGE KIARIE NGERERE** was charged with one count of murder contrary to **section 203** of the **Penal Code**. However, after hearing the case the court found the accused guilty and convicted him of manslaughter contrary to **section 202** of the **Penal Code**.
2. The sentence for the offence of manslaughter is provided under **section 205** of the **Penal Code**. The sentence under that section provides that a person convicted of that offence is liable to imprisonment for life.
3. Mrs. Kinoti, Learned Prosecution Counsel treated the accused as a first offender, having not obtained any proof of previous record.
4. Mr. Wachira, Learned Defence Counsel urged the court to consider the following factors before sentencing. These were the fact the accused was aged 35 years of age; that he was a businessman; that he had a wife and 3 children aged between 15 years and 3 years.
5. Counsel urged that the accused was remorseful for what led to him being charged in court. He urged court to exercise leniency towards the accused and give him a non-custodial sentence. Counsel urged that accused had been in custody for 3 years and 5 months and that he had learnt his lesson.
6. I have considered submission by both counsels to this case. I have noted accused period of incarceration pending his trial, a total of 3 and a half years. I also considered his age and fact he claims that he is remorseful for this offence.
7. The circumstances of this case were quite unfortunate as it is clear the deceased was drunk and therefore not in a very lucid state of mind. He was unreasonable, chasing away the accused from making any food order from PW1. The deceased was also a bully, being stronger and taller than the accused according to eye witnesses.
8. It is also a relevant factor that accused denied being at the scene and denied any involvement in the deceased death. As regards the offence and its circumstances the accused was not candid and honest in this case.
9. I find that he was not remorseful for the offence. The fact he was provoked by the deceased cannot be used as a ticket to remain hard hearted for the action and for the resultant loss of life.
10. That said the deceased was equally to blame for the incident.
11. Having considered all these factors and the circumstances of this case I sentence the accused to six years imprisonment.
12. The accused has a right of appeal within 14 days of today.

**DATED SIGNED AND DELIVERED AT NAIROBI THIS 19<sup>TH</sup> DAY OF JULY, 2018.**

**LESIT, J**

**JUDGE**