

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
NAIROBI
CRIMINAL CASE NO. 71 OF 2015

LESIIT, J

REPUBLIC.....PROSECUTOR

VERSUS

LEONARD MUTUNGA BETH.....ACCUSED

SENTENCE

1. The accused person was charged with one count of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**.
2. The accused was convicted for the substituted charge of manslaughter contrary to **Section 202** of the **Penal Code** as read with **Section 205** of the **Penal Code**. This was after the prosecution failed to prove their murder charge against the accused.
3. He was arraigned in court on the 27th of July 2015. He took plea on the 30th of July 2015.
4. I have considered the period the accused has stayed in remand during pendency of trial. He has been in custody for 1 year and 9 months.
5. The learned Prosecution Counsel urged the court to treat the accused as a first time offender as the state had no previous record of him if any. I am therefore treating him as a first time offender.
6. The Learned Defence Counsel told the court that the accused was remorseful for his action since the deceased was his friend. Counsel added that the accused is 22 years old and has one parent who is diabetic and suffers from High Blood Pressure. This ailing parent solely depends on the accused.
7. Learned Defence Counsel added that the accused is a father to a 2-year-old child with a lady whom he intends to marry. They too solely depend on him.
8. Counsel urged that the accused is an acrobat and was a trainer in the same field while in prison. The learned counsel requested for a non-custodial sentence.
9. I have considered the circumstances of the case. The accused stabbed the deceased once.
10. Having considered all these factors and the law, I sentence the accused to serve 8 years' imprisonment term from the date of his arraignment in court which is 27th July, 2015.
11. The accused has a right to appeal both the conviction and sentence within 14 days from the date of this sentence.

DATED AT NAIROBI THIS 14TH DAY OF MARCH, 2017.

LESIIT, J.

JUDGE.