

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO.88 OF 2013

REPUBLICPROSECUTOR

VERSUS

BENARD KIPRONO MITEI.....ACCUSED

SENTENCE

1. The accused herein, BENARD KIPRONO MITEI, pleaded guilty to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code** following a plea bargain agreement that saw the initial charge of murder reduced to a lesser charge of manslaughter.

2. The accused was consequently convicted on the lesser charge of manslaughter on his own plea of guilty. The particulars of the offence were that on 19th July 2013 at 6 p.m. Merekito village, Njipiship Location in Transmara east District within Narok County, unlawfully caused the death of AMOS KIPLANGAT.

3. The facts of the case, as narrated by Miss Mbelete, counsel for the state were that on 19th July 2013, the mother of the deceased, who was an aunt to the accused, left her two children including the deceased, who was then aged only 4 years, in the care of the accused as she went to the market. However, no sooner had the deceased mother accomplished her mission at the market, than the accused entered the house where the deceased was sleeping and slit open his throat using a panga.

4. The accused then took off after committing the offence but was arrested the following day in Sotik area. A post mortem examination on the body of the deceased established the cause of death to be cardio-pulmonary arrest secondary to haemorrhage and assault. A mental assessment report on the accused established that he was fit to stand trial.

5. In mitigation Mr. Momanyi for the accused submitted that he was a first offender who deeply regretted his actions. Mr. Momanyi added that the accused was a youngman who was unmarried and had been in custody for 3 years while awaiting his trial. The probation officer's report filed on 6th March, 2017 recommended a non-custodial sentence for the accused.

6. I have however considered the very disturbing and cruel circumstances under which the deceased herein, an innocent child aged only 4 years, met his cruel death. The accused turned on the little boy and killed him in the most bizarre and barbaric manner when the deceased had been left in his care by his aunt, the deceased's mother. The accused breached the trust that the child's mother had bestowed on him in the most callous and inhuman manner.

7. Manslaughter is serious felony that attracts a maximum of life sentence. The unprovoked attack on the deceased by the accused portrays him as cold-blooded killer who does not deserve the leniency or sympathy of this court.

8. I am satisfied that a custodial sentence will be appropriate in this case. Consequently, I sentence the accused to 20 years imprisonment.

Dated, signed and delivered in open court this 6th day of March, 2017

HON. W. OKWANY

JUDGE

In the presence of:

Miss Mbelete for the State

Accused present in person

Omwoyo/ Wilmah -court clerk