



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
HIGH COURT CRIMINAL CASE NO.53 OF 2015

REPUBLIC.....STATE

-VERSUS-

MARGARET KERUBO OSINDI..... ACCUSED

SENTENCING

The accused person, Margaret Kerubo Osindi, was initially charged for murder, contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars thereof were that on 3rd day of May at Ratandi village in Bomabacho Sub-location in Nyamira County in the Republic of Kenya murdered **Geoffrey Achoka Osindi**.

However, through the legal process of plea bargaining and agreement, the accused person was able to plead to a lesser offence of manslaughter on 08/12/2015, contrary to **Section 202** as read with **Section 205** of the **Penal Code**.

On her own plea, the court found her guilty of manslaughter and, accordingly convicted her of the said offence on 08/12/2015 at Nyamira High Court.

The facts of the case were narrated to the court by the prosecution who also stated the accused did not have a record of previous offence.

In mitigation Mr. Okemwa for the accused stated as follows:

1. **The accused is very remorseful of the offence committed.**
2. **She learned a great lesson while in remand, since 2013.**
3. **The deceased is her own blood, she never intended to kill**
4. **She has five other children who were being looked after by the aged, grandmother who is incapable, due to age, to look after the children well.**
5. **I humbly ask the court to sentence her to a non-custodian sentence, so that she can re-unite with her children and give them motherly love, and fully cater for them.**
6. **She vows never to ever engage in disciplinary action on her children excessively.**
7. **She craves to see where her child was buried**

8. Her other children are aged 3 years for the youngest and 14 years for eldest.

The court also called for a probation report to help in arriving at an appropriate sentencing. The said report was filed on 18th January 2016 and dated 18th January, 2016 by Mr. Elijah .M. Omanga, the Probation Officer at Nyamira Probation Office.

The accused is aged 37 years she has other children in care of their grandmother.

The victim attitude: they are not opposed to a lenient sentence.

The family Attitude: are willing to support her and facilitate reconciliation.

The community Attitude: they blame the current offence too much indulgence in alcohol. The community is ready to welcome her and support her towards community rehabilitation and reintegration.

The report recommends the accused for probation and for a non-custodial sentence and will endeavor to give guidance and counseling towards addressing her temperaments and deterrence recidivism and facilitation of sustainable reconciliation.

Accordingly this court would sentence the accused person to two year non-custodial sentence to be supervised by the Probation Officer of her area.

It is so ordered.

Dated this 1st day of February,2016.

C.B. NAGILLAH

JUDGE

In the presence of:

Nyamwange hold brief for Ogari for accused

Malesi for the State

Mercy - Court Clerk