

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 11 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

DANIEL NZOMO MUTUA.....ACCUSED

SENTENCE

Daniel Nzomo Mutua was convicted of manslaughter contrary to section 202 as read with section 205 of the Penal Code. He had been charged with the murder of Dorothy Kagendi Nyaga alias Caroline Wambui contrary to section 203 as read with section 204 of the Penal Code. After full hearing this court found the charge of murder not proved beyond reasonable doubt but found manslaughter proved. The matter was deferred for mitigation before sentence. The state had no record of previous convictions and this court is treating the accused as a first offender.

In mitigation, Mr. Wachira on behalf of the accused told the court that the accused is remorseful for what happened and seeks forgiveness. Counsel told the court that the accused is aged 29 years and is at the prime of his life and that he takes care of his aged parents; that he has been in custody for four years and seeks leniency.

I have considered the circumstances of this case and that the accused is remorseful. I have taken into account that the prosecution has not presented previous records and therefore the accused is treated as a first offender. I have also considered that the accused has been in custody since January 2012. I will therefore sentence the accused, which I hereby do, to serve a total of seven (7) years. Since he has been in custody for four (4) years I order that he serves a jail term of three (3) years. He is informed of his right to appeal against the conviction and sentence within 14 days of today's date. It is so ordered.

Dated, signed and delivered this 10th day of May 2016.

S. N. MUTUKU

JUDGE