

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 105 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

PAULINE CHEPKEMOI KOBIRO.....ACCUSED

SENTENCE

1. The accused herein **PAULINE CHEPKEMOI KOBIRO** was initially charged the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. By a plea bargain agreement made on 10th March, 2016 between the accused and the state, the said charge was reduced to a lesser charge of manslaughter contrary to Section 202 as read with Section 204 of the Penal Code.
2. It is alleged that on 30th September, 2013 at Chebungei village, Mogor Location in Transmara East District within Narok County, she unlawfully caused the death of **DAVID KIMELI MUTAI**.
3. The accused pleaded guilty to the charge of manslaughter and was consequently convicted on her own plea of guilty.
4. The brief facts of the case as stated by the prosecution were that the accused and the deceased were husband and wife. The two engaged in a physical duel due to a domestic row that led to the accused stabbing the deceased with a kitchen knife thereby wounding him fatally
5. In mitigation, Mr. Momanyi for the accused submitted that she was a fairly young lady aged 45 years and had young children to take care of following the unfortunate death of her husband. Mr. Momanyi pleaded for leniency on behalf of the accused in view of the fact that she was a first offender.
6. I have considered the disturbing circumstances that led to the death of the deceased and the fact that the accused acted in self defence when she was attacked by the deceased using the same kitchen knife that she eventually grabbed from him and used to stab him. In effect, the deceased can be said to have fallen on his own sword in this case. Be that as it may, this court frowns upon violent confrontations and opines that they should be avoided at all costs.
7. I note that the probation officers report filed on 30th March, 2016 favours a non-custodial sentence for the accused who has been in custody for over 2 years while awaiting her trial. I am convinced that the over 2 years period that the accused has been in custody will serve as adequate lesson to her to steer clear from violent confrontations.
8. Consequently, I hereby sentence the accused to 1 year probation during which period she will be supervised by the probation officer of her area.

Delivered, dated and signed in at Kisii on **9th day of May, 2016**.

W.A. OKWANY

JUDGE

In the presence of:

- Otieno for the State
- Magara for Momanyi for the Accused
- Omwoyo court clerk