



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 47 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

RICHARD KIPLANGAT CHERUIYOT.....ACCUSED

SENTENCE

1. The accused herein **RICHARD KIPLANGAT CHERUIYOT** was initially charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code** which was by a plea bargain agreement dated 25th May 2016 reduced to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code**.
2. The particulars of the charge were that on 22nd April 2013 at Keringari area in Transmara District within Narok County unlawfully caused the death of **JULIUS KIPROTICH NGENO**.
3. The accused pleaded guilty to the lesser charge of manslaughter and was consequently convicted on his own plea of guilty. The facts of the case were that on 22nd April 2013 at about 6 p.m., the deceased herein **JULIUS KIPROTICH NGENO**, who had consumed busaa was heading towards his home when he met the accused who was equally drunk along the way whereupon an argument ensued between them over an unknown issue. In the course of the argument, the accused unleashed a knife and stabbed the deceased on the chest thereby causing him fatal injuries.
4. A postmortem examination carried out on the body of the deceased revealed that the cause of death massive haemorrhage due to a stab wound.
5. In mitigation, Mr. Kaburi for the accused submitted that the accused was remorseful about his reckless behavior that resulted in the loss of life. Mr. Kaburi stated that the accused is a young man aged 34 years and that the 3 years had spent in custody while awaiting his trial had taught him a lesson to live an alcohol free life. He pleaded for leniency through a non-custodial sentence that would enable him to get a second chance in life.
6. The Probation Officer's report filed on 13th July, 2016 recommends a non-custodial sentence for the accused.
7. This court has taken into account the circumstances surrounding the case, the Probation Officer's report, the accused's mitigation and the fact that he has been in custody for slightly over 3 years while awaiting his trial. I also take into account the fact that the accused agreed to plead guilty to a lesser charge of manslaughter thereby saving this court a lot of judicial time that could have gone into a lengthy trial.

8. The accused's mitigation that he was under the influence of alcohol when he committed the offence is not acceptable to this court as it that was the case, then there would be a lot of dead people all over the streets and pubs due to killings arising from alcohol consumption. The taking of alcohol cannot be an excuse to commit a crime. This court wonders why the accused deemed it fit to walk around with a knife if indeed he had no intention of using it to harm other people.

9. The reckless actions of the accused led to the loss of life of another human being who had the same right to be alive just like the accused.

10. In view of the above considerations and observations I hereby sentence the accused to 7 years imprisonment. The sentence term shall run from the date of the accused's first appearance in court.

Delivered, dated and signed in at Kisii on 14th of July, 2016.

W.A. OKWANY

JUDGE

In the presence of:

- Mr. Otieno for the State
- Mr. Kaburi for the Accused
- Omwoyo court clerk