



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISII**

**CRIMINAL CASE NO. 08 OF 2016**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**DICKSON GEKONGE.....ACCUSED**

**SENTENCE**

[1] DICKSON GEKONGE, the accused person herein, was initially charged with the offence of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. Following a plea bargain agreement, executed on 20<sup>th</sup> July 2016, between the accused and the state, the initial charge of murder was reduced to a lesser charge of manslaughter contrary to **Section 202** as read with **Section 205 of the Penal Code**. The accused plead guilty to the said lesser charge of manslaughter and was consequently convicted on his own plea of guilty.

[2] The particulars of the offence were that on the night of 4<sup>th</sup> and 5<sup>th</sup> March, 2016 at Amabuko Sub location in Masaba South Sub- County within Kisii County in the Republic of Kenya jointly with others not before the court unlawfully caused the death of **HENRY MAKORI NYANCHAMA**.

[3] The facts of the case, as narrated by Miss Mbelete, counsel for the state, were that the accused and the deceased were very good friends and that on the material day the duo drunk chang'aa at a neighbouring home after which a disagreement arose between them that escalated into a physical confrontation.

[4] The body of the deceased was discovered on a footpath on the following day and a post mortem examination conducted on the body a few days later established the cause of death to be cardio pulmonary arrest due to multiple organ injury from a blunt object.

[5] In mitigation, Mr. Okemwa for the accused submitted that the accused was remorseful for having killed his own friend and stated that the alcohol that the accused and the deceased took could have aggravated their disagreement into an all out war. Mr. Okemwa added that the accused was the sole bread winner of his young family of 2 minor children and an aged widowed mother.

[6] I have considered the circumstances surrounding this case, the mitigation offered by Mr. Okemwa counsel for the accused and the probation officer's pre-sentencing report. I note that it was not very clear, from the facts of the case, what precipitated the disagreement between the accused and the deceased who are reported to have been very good friends. Nevertheless, the accused has admitted to the charge of manslaughter and the court is at this point taxed with the duty of passing a sentence on him.

[7] It is for the above reasons and considerations that I hereby sentence the accused to 2 years probation during which period he will be supervised by the Probation Officer of his area.

**Delivered, dated and signed in at Kisii on 6<sup>th</sup> of September, 2016.**

**W.A. OKWANY**

**JUDGE**

**In the presence of:**

Mbelete for the State

Sagwe for Okemwa for the Accused

Omwoyo court clerk