



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO. 30 of 2014

LESIT, J.

REPUBLIC.....PROSECUTION

VERSUS

LYDIA WAMUYU WAMBUI.....ACCUSED

RULING ON SENTENCE

1. The accused person has been convicted of manslaughter contrary to **section 202** of the **Penal Code after the accused and the State successfully entered into a Plea Bargaining Agreement**. The sentence for the offence of Manslaughter is provided under **Section 205** of the **Penal Code** which provides:

“205. Any person convicted of manslaughter is liable to imprisonment for life.”

2. The prosecution has urged that they did not have accused previous record. I have considered that fact and will therefore treat the accused person as a first offender.

3. The matter was handled by Mutuku, J. who left the case with me as she was proceeding on a lengthy leave.

4. I have perused the proceedings in this case. It shows that the accused acted in self defence. The trial court found that the accused was traumatized by the adults in her life forcing her into a relationship with the deceased. That was what led to the circumstances that led to the confrontation in which the accused stabbed the deceased three times leading to his death.

5. I have considered the mitigation ably made on behalf of the accused by her counsel Mrs. Kinyori. I have considered that the accused is a mother of one child and that at the time the incident occurred that child was only three weeks old. I considered her age, that at the time the incident occurred she was 20 years of age. Counsel urged that the accused is very remorseful for this offence and that she has pleaded for a non-custodial sentence. Counsel urged that the accused would return back home and assist her mother as well as get gainful employment.

6. I have indeed considered that the accused has been in custody during the pendency of her trial since 22nd April, 2014. That is a period of two and a half years.

7. I have considered the Pre-Sentence Report by the Probation Officer. It does not contain Victim Impact Statement(s) as the only relative traced, a grandmother of the deceased who declined to make any

statement.

8. The Probation Officer has recommended a non-custodial sentence for the accused and that the first year should be at a Probation Hostel to enable her get trained with skills to assist her in being self-reliant.

9. I have borne all these factors in mind before passing sentence. I have also considered **Section 205 of the Penal Code** which shows clearly that a person convicted for the offence of manslaughter is liable to imprisonment for life. That means the court can exercise discretion in determining the nature and term of the sentence to impose against the accused person.

10. I have confirmed from the accused that she is willing to serve a probation sentence. In the result I order as follows:

1. I will sentence the accused to a Probation term of three years. As recommended, the first year should be spent at the Probation Hostel to enable the Department train the accused with skills to help her fend for herself in future.

2. During that period she should be of good conduct, keep Company with persons of good behaviour and reputation. She should be obedient and abide by the conditions set by the Probation Officer supervising her. The accused is further warned that she should not commit any other offence during the period of the probation sentence.

3. I direct that the Probation Department organize Guidance and Counselling Sessions for the accused person as part of the rehabilitation of the accused.

4. The accused is warned that if she breaches any of these conditions and terms she will be brought back to this court and may result in a custodial sentence being imposed against her.

5. Right of appeal against conviction and sentence within 14 days explained.

DATED AT NAIROBI THIS 5th DAY OF OCTOBER, 2016.

LESIIT, J.

JUDGE