



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO. 90 of 2015

LESIT, J.

REPUBLIC.....PROSECUTION

VERSUS

WINNIE ADHIAMBO.....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 Plea Bargaining**. 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 the accused person has no 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. In particular I have had occasion to read the facts of the case as per the filed Plea Agreement signed by both sides. It shows that there was a fight between the accused and the deceased, after the deceased went to accused house agitated because of information she had received that morning that the accused had said that she was barren. After a fight, the deceased decided to run from the accused but in the process the accused stabbed the deceased on the back.

5. I have considered the mitigation ably made on behalf of the accused by her counsel Mrs. Omungala. I have considered that the accused is a mother of two children, one of which was born while she was in prison for this case. Counsel urged that the accused is very remorseful for this offence and that she has reformed while in prison. Counsel urges the court to note that the offence was not intended but that it happened as a result of a fight. Counsel also urged that the accused was a bread winner to her family and siblings.

6. I have indeed considered that the accused has been in custody during the pendency of her trial since 29th September, 2015. That is a period of one year. She is also young, being 20 years old.

7. I have considered the Pre-Sentence Report by the Probation Officer. It contains the Victim Impact

Statements of the brother and the husband of the deceased. They are yet to heal for the loss of their loved one. They also say that it has been a daunting task to care for the children the deceased left behind. They were of the view that the law should be left to take its course.

8. The Probation Officer has recommended a non-custodial sentence for the accused and an Anger Management support and counselling to encourage the accused on the need to keep pro-social friends.

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. In the result I order as follows:

- 1. I will sentence the accused to a Probation term of three years. 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.**
- 2. I direct that the Probation Department organize Guidance and Counselling Sessions for the accused person as part of the rehabilitation of the accused.**
- 3. 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.**

DATED AT NAIROBI THIS 3RD DAY OF OCTOBER, 2016.

LESIIT, J.

JUDGE