



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO.63 OF 2012**

REPUBLIC.....PROSECUTOR

**VERSUS**

**C M N.....ACCUSED**

**SENTENCING**

The accused, **C M N** was initially charged with the murder of **P N M** contrary to section 203 as read with section 204 of the Penal Code. Before her trial commenced however, she entered into a plea agreement with the office of the Director of Public Prosecution wherein the State reduced the charge to one of manslaughter. She pleaded guilty to the lesser charge and was convicted on her own guilty plea on 24<sup>th</sup> November, 2014.

According to the facts contained in the plea agreement read to the court by prosecution counsel, the deceased and the accused were husband and wife. They had two children aged 9 and 3 respectively. On the material night of 30<sup>th</sup> & 31<sup>st</sup> July 2012, the deceased arrived home drunk and demanded food from the accused yet he had not provided any money for the same. A quarrel ensued during which the deceased ordered the wife to get out of the house. She declined to leave without her 3 year old daughter. The deceased is said to have picked a knife and attempted to stab the accused who overpowered him. She stabbed him twice in the chest and he succumbed to the injuries. The accused thereafter picked her daughter and fled. She was later arrested and charged with murder which as stated above has been reduced to the present charge of manslaughter. The prosecution exhibited a mental report certifying that the accused was of sound mind and a post-mortem report in respect of the deceased to prove death. The post mortem report shows that the deceased was stabbed twice in the chest and sustained two deep stab wounds and died as a result of chest injuries due to penetrating force trauma.

In mitigation, the accused stated that she was remorseful and had two young children to care for. She prayed for a non-custodial sentence. I called for a probation report which has duly been filed in court. The report indicates that the accused and the deceased led a quarrelsome life and fought constantly. The relatives of the couple state that they were aware of the constant fights and that the accused had in the past threatened to kill the deceased. The report further indicates that the accused's family has made attempts at reconciliation with the deceased's family in accordance with the Kamba tradition as both families belong to the same clan and village. I consider this to be a noble cause which should be encouraged and pursued for the sake of societal peace and harmony.

The facts of this case however demonstrate that the accused was given to violence and ill intention against her husband. It is documented that she had threatened him with death before. On the fateful date, after viciously stabbing him twice, she fled instead of seeking help to save his life.

Having considered the circumstances of this case, the probation report and the mitigation offered, I do not consider the accused fit for a non-custodial sentence. I am of the view that she will benefit from rehabilitation in custody. Taking into consideration the period she has been in custody, I sentence her to 5 years' imprisonment.

Orders accordingly.

**Ruling delivered and dated at Nairobi this 9th day of February, 2015**

**R. LAGAT - KORIR**

**JUDGE**

In the presence of:

.....: Court clerk

.....: Accused

.....: For the accused

.....: For the State