

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 98 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

CHRISPINUS NATEMENYA KHAKALI.....ACCUSED

SENTENCE

Chrispinus Natemenya Khakali was charged with murder contrary to section 203 read with section 204 of the Penal Code. After reviewing the evidence of nine (9) prosecution witnesses and one (1) defence witness, this court found the offence of murder not proved beyond reasonable doubt. Instead this court convicted the Chispinus of manslaughter under section 202 of the Penal Code which in the view of this court has been proved beyond reasonable doubt.

In mitigation before sentence Mr. Wanyanga for the accused told the court that the accused is remorseful for having caused the death of the deceased; that the accused is a father of two young children and he was the sole bread winner for the family before he was arrested; that he was employed before his arrest but that he lost his job while in custody. He stated further that the accused has since reformed and turned to faith and has already been awarded three certificates by the Gospel Faith Messenger Ministry. Mr. Wanyanga mitigated that the accused acted in anger but he now knows what he did was wrong and he ought to have turned away from the situation that led to the death of his wife. He urged the court to give him a lenient sentence to enable him reunite with his children and provide for them.

I have considered the circumstances surrounding the commission of this offence. No matter how serious the circumstances that led to the quarrel and ultimately the stabbing of the deceased, the accused had no right to take a life. He used excessive force under the circumstances and he must pay for the crime committed. This court is alive to the fact that there are young children involved but this alone will not persuade this court to let the accused go scot-free. It was inhuman to stab the deceased those many times which stablign was fatal. In addition the accused went ahead and clobbered the deceased with a metal bar. A custodial sentence befits this crime. I have considered that manslaughter attracts a life sentence under section 205 of the Penal Code. I have considered that the accused has been in custody since September 2013 which is under two years. In my view the accused deserves a deterrent sentence and I hereby sentence the accused Chrispinus Natemenya Khakali to twenty (20) years' imprisonment. It is so ordered.

Dated, signed and delivered this 12th day of May 2015.

S. N. Mutuku

Judge