

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO. 44 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

GEOFFREY KIPNGETICH ROTICH.....ACCUSED

SENTENCE

GEOFFREY KIPNGETICH ROTICH, the accused, was initially arraigned before this court to face a charge of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Pursuant to the plea agreement dated 5th November 2013, the accused pleaded guilty to the lesser charge of manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code**. On 28th November 2013, this court approved the plea agreement and proceeded to convict the accused on his own plea of guilty to the aforesaid agreement.

Before pronouncing the sentence, this court invited the accused's learned advocate to present facts in Mitigation. The court also called for a Probation Report. Before considering the Mitigating factors and the Probation Report, let me set out in brief the facts of this case. It is said that on 4th November 2012, at about 6.00pm, the accused arrived home at Kichawir Village, Tugunon Sub-location in Kericho County, from a drinking spree. He picked up a quarrel with his father, **Joseph Kiprotich Sigilai**, the deceased over the sale of some maize from the family store. A fight ensued. The deceased entered his house came out with a walking stick while armed with a knife. After a short struggle, the accused managed to snatch the knife from the deceased which he used to stab the deceased thus fatally injuring him. The Pathologist formed the opinion that the deceased died as a result of severe haemorrhage due to stab wound.

Miss. Muthee, learned Prosecuting State Counsel, informed this court that she had no past criminal record of the accused. The accused was consequently treated as a first offender. Mr. Maengwe, learned Defence Counsel, beseeched this court to be lenient to the accused by meting out a non-custodial sentence. It is his submission that the accused is remorseful and regrets killing his father. I have also considered the Probation Report. It is stated that the family is willing to forgive the accused and that they are ready to accept him back home. From the facts in Mitigation and the probation report, it is clear that the offence was committed by the accused while he was drunk and annoyed. He is a first offender, young and remorseful. The accused has been in custody since the time of his arrest i.e on 5th November 2012. The Probation Officer does not have any objection if the accused is placed on probation. I am convinced that in view of the circumstances of this case the appropriate sentence should be non-custodial. The accused is hereby set free from custody and is ordered to served probation for two years under the supervision of the Kericho Probation Officer.

Dated, Signed and delivered in open court this 7th day of March, 2014.

.....

J.K.SERGON

JUDGE

In the presence of:

Mr. Maengwe for the Appellant

Miss. Kivali for Director of Public Prosecution