



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 43 OF 2012**

REPUBLIC.....PROSECUTOR

VERSUS

ELIJAH KIPKEMOI LANGAT.....ACCUSED

**SENTENCE**

**ELIJAH KIPKEMOI LANGAT**, was initially brought 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 executed on 27th May 2014, the accused instead pleaded guilty to the lesser charge of manslaughter contrary to **Section 202** as read with **Section 205** of the **Penal Code**. This court convicted the accused for manslaughter upon approving the aforesaid plea agreement.

Before pronouncing the sentence, this court invited the Prosecution to outline the accused's past criminal record and further asked the accused to present facts in Mitigation. This court also requested the Probation Officer to prepare and file a Probation Report on the accused. At the time of writing this decision, the Probation Report had been filed. Miss. Kivali, learned prosecuting counsel urged this court to treat the accused as a first offender. Mr. Mutai, learned advocate for the accused beseeched this court to pronounce a non-custodial sentence to enable him take care of his five children who are of tender age. Those children are currently under the care of the accused's elderly mother. The accused is said to be remorseful. There is no doubt, that the accused has been in custody since the year 2012 i.e for two (2) years. The facts outlined by the prosecution show that the accused was provoked by the deceased's conduct to the extent that he acted unreasonably. The accused in any case was not justified to act in the manner he did. His action took away the life of his wife. The deceased is said to have left the Matrimonial home on the fateful day and had not arrived at the time the accused came back home at 7.30pm. The deceased came back at 12.30am while drunk. She found the accused and the children asleep. The family appears to have slept without having dinner due to the absence of the deceased. She told the accused that she was from the posho mill. This was obviously a lie. This lie may have infuriated the accused who started beating up the deceased using a metal bar which was usually used to light fire. The couple slept in separate beds. The accused checked on the deceased in the morning but discovered she was dead. He then surrendered himself to Fort-tenan Police Station who in turn arrested him and later preferred a charge of murder. The deceased's body was taken for postmortem. The cause of death was stated to be severe haemorrhage. It is clear from the facts outlined that the accused did not intend to cause grievous harm or death. The probation report indicates that the victim's family is ready to reconcile with that of the accused after conducting the traditional Kipsigis Traditional Cleansing Ceremonies. The two families are not opposed to any non-custodial sentence being pronounced. The probation officer too, recommended for a non-custodial sentence.

After considering all the relevant factors, I am convinced that a non-custodial sentence is the appropriate penalty since the home environment is conducive and receptive to the accused. Consequently, I hereby order that the accused be released from custody to serve two years probation under the supervision of the Probation Officer, Kericho County.

**Dated, Signed and delivered in open court this 13th day of June, 2014.**

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**J.K.SERGON**

**JUDGE**

**In the presence of:**

Miss. Kivali for Director of Public Prosecutions

Mr. Langat holding brief for Mr. Koko for accused