



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 54 OF 2011**

REPUBLIC.....PROSECUTOR

VERSUS

KENNEDY KIPKOECH KIGEN.....ACCUSED

**RULING ON SENTENCE**

**Kennedy Kipkoech Kigen** the accused, was charged with the murder of **Franklin Kipkorir Byegon** on 12th November, 2013.

The charge was reduced to Manslaughter after a plea bargaining arrangement. The accused pleaded guilty to the reduced charge and was convicted.

Mr. Miruka mitigated on behalf of the accused and the County Probation Officer filed his report on 21/8/2014. The facts of the case were well stated by the State. The accused is a twenty-four (24) year old young man whose mother is mentally ill.

On 8/11/13 the accused went to his mother's room and found the deceased having sex with his mother. He escaped. Again on the fateful night at 1.00am the accused arrived home and found the deceased attempting to break the windows to gain access to the accused's mother's house. It is clear the deceased wanted to gain entry into that house to go and do what he had been found doing on 8/11/13. The victim of the deceased's immoral activities is the mother of the accused. I do find that the deceased's actions were highly provocative.

The report by the Probation Officer confirms that the accused's mother is mentally ill and needs care and protection. The administration is aware of the report of the deceased's sexual activities against the accused's mother. The two families are said to be talking in order to be reconciled. I have however noted from the Probation Officer's Report that the victim's family believes that there was an element the accused had not revealed. The facts before the court clearly reveal that the deceased provoked the accused. The accused's family needs him and are willing to have him back home. A non-custodial sentence will open up an avenue and environment for the two families to undertake traditional rituals according to the Kipsigis Customs. The local administration should actively participate.

I will therefore sentence the accused to three (3) years on Probation. The conditions are well explained to the accused person.

Mention on 16/12/2014 for a progress report on the reconciliation by the two families. The Probation Officer Bomet County to avail the report.

**Dated, signed and delivered in court this 2nd day of October, 2014.**

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**H. ONG'UDI**

**JUDGE**

**In the presence of:**

M/s Kivali for State

Mr. Miruka for accused – present

Accused- Present in person

Langat- court assistant