

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CRIMINAL CASE NO. 120 OF 2013

STATE.....PROSECUTOR

VERSUS

CHARITY CHEBET.....ACCUSED

JUDGMENT

1. Charity Chebet (*the accused*) was originally charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code as read with Section 204 of the Penal Code.

2. The accused however had her offer to plead to a lesser charge accepted by the Director of Public Prosecutions and a Plea Bargain Agreement was duly executed between the accused and the Republic on 22nd July 2014. So the accused pleaded guilty to the charge of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code, on 22nd July 2014, and was duly convicted on that plea. This Ruling is about sentence only.

3. In mitigation, Counsel for the accused submitted that the accused is remorseful and deeply regrets the incident arising out of which she lost her husband. She is 23 years of age and currently carries a pregnancy of seven months. They had one child aged two years who needs the care of her mother, the remaining parent.

4. The prosecution submitted that the accused had no record of previous criminal activity, but submitted that accused should be sentenced to life imprisonment under Section 205 of the Penal Code.

5. The circumstances under which the accused committed the offence are summarised under Part 3 of the Plea Bargain Agreement. The accused and the deceased had picked a quarrel and the accused was armed with the common kitchen knife. With that knife the accused stabbed the deceased on the lower neck. A post-mortem Report established that the cause of death of the deceased was due to massive blood loss with lungs collapsed due to a single stab injury to the left of the lower neck.

6. The drawback with the design of Plea Bargain Agreements is that they omit a lot of the details and the circumstances under which the offences was committed and there is therefore little material go guide the court in meting a proper sentence in line with the actual guilt of the accused person. If there was a quarrel was it provoked, and if so by whom, the accused or the deceased? There was no Probation Report as to the circumstances of the accused in the home or place where the place of the offence, Kongoni Trading Centre in Naivasha.

7. Doing the best I can with the scanty information and noting that the couple had a two year old child whose circumstance was not disclosed, and also noting that the accused is seven months pregnant, and the Prison conditions are not the optimum places for giving birth and raising of babies, I sentence the accused to three years to be served under Probation at Kongoni, or such other place that the accused and her children would be safest.

It is so ordered.

Dated, signed and delivered at Nakuru this 14th day of November, 2014

M. J. ANYARA EMUKULE

JUDGE