

REPUBLIC OF KENYA

High Court at Nyeri

Criminal Case 8 of 2012

REPUBLIC.....PROSECUTOR

-versus-

GEORGE MAINA MUTEITHIA.....ACCUSED

RULING ON REVISION

George Maina Muteithia, the accused person herein, was arraigned before this Court to face a charge of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Learned Counsel on the part of the accused and the Learned State Counsel commenced negotiations which culminated to the recording of a Plea Agreement in which the Accused Person pleaded guilty to the lesser charge of **Manslaughter** contrary to **Section 202** as read with **Section 205** of the **Penal Code**.

The issue which has been left to this Court to grapple with, is the kind of sentence to pronounce against the accused. I have considered the submissions on mitigation made by Miss Mwai, Learned Advocate for the accused. I have further considered the Probation Report prepared by the Probation Officer Mathira District. Mr. Kaigai, Learned Provincial State Counsel informed this court to treat the Accused as a past offender. Mr. Mwai, urged this Court to be lenient to the accused. It was pointed out that the accused is a young person aged 32 who has been left to take care of two young children currently being taken care of by his aged parents. Miss Mwai proposed to this court to pronounce a non-custodial sentence. I have looked at the facts outlined by the Learned Provincial State Counsel and it is clear that the accused person committed the offence under the influence of alcohol. Prior to the incident, the deceased and the accused being wife and husband had a rocky marriage characterized with frequent feuds and fights. This information is disclosed in the report filed by the Probation Officer. In the aforesaid report, it is stated that the society and the immediate family bears no grudge against the accused and that they are ready to accommodate him back to society. I am alive of the fact that the offence attracts a maximum sentence of Life Imprisonment. The mitigating factors presented to this court enjoins this court to treat the accused with leniency in the circumstances. I think the accused should be kept in custody for a while to enable the society heal from the shock of losing life. While in custody, the accused will also take time to reflect on his past action and the future. I hereby sentence the accused to serve three (3) years imprisonment.

Dated and delivered this 2nd day of November 2012.

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J. K. SERGON

JUDGE