



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL OF KENYA  
AT NAIROBI  
Criminal Appeal 5 of 1992**

**FRANCIS NGIGI GATHUGU ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**(Appeal from a conviction and sentence of the High Court of Kenya**

**Nairobi (Mr Justice J.A. Mango) dated 19<sup>th</sup> July, 1991**

**In**

**CRIMINAL CASE NO 19 OF 1991)**

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**JUDGMENT OF THE COURT**

The appellant's appeal to this Court is against sentence he had on 19<sup>th</sup> July, 1991 pleaded guilty to manslaughter contrary to section 205 of the Penal Code, was convicted and sentenced to 4 years imprisonment by the High Court at Nairobi. High mitigation before that court was to the effect that he was an old man of about 66 years of age. He had six minor children and was remorseful as the man he had killed was his neighbour.

The learned trial Judge took into account the appellant's mitigation and observed that the appellant and entitled to some kind of leniency. In the instant appeal, the appellant has more or less repeated the same mitigation factors.

He had stabbed the deceased with a pen knife on the right arm-pit, forehead and on the left hand. The deceased died as a result of respiratory arrest due to haemothorax consequent to a penetrating wound on the right side of the chest. With these kind of injuries, together with the attendant circumstances leading to the commission of the offence for which the appellant was convicted, we consider that the sentence of 4 years imprisonment was neither level nor manifestly excessive. Accordingly, the appellant's appeal is without any merit and the same is dismissed.

It is so ordered.

Dated and delivered at Nairobi this 17<sup>th</sup> day of September, 1992.

J.M. GACHUHI

JUDGE OF APPEAL

J.E. GICHERU

JUDGE OF APPEAL

A.M. COCKAR

JUDGE OF APPEAL