



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(Coram: Madan & Hancox JJA & Chesoni Ag JA)

CRIMINAL APPEAL NO 14 OF 1983

BETWEEN

STEPHEN MAINA MACHARIA APPELLANT

AND

REPUBLIC RESPONDENT

**(Appeal from a conviction and sentence of the High Court of Kenya at Nyeri (O’Kubasu
J) dated 16th February, 1982**

in

Criminal Case No 16 Of 1981)

JUDGMENT OF THE COURT

The appellant was convicted on his own plea of guilty of manslaughter contrary to Section 205 of the Penal Code (Cap 63) and sentenced to five years’ imprisonment. He has appealed against the sentence only. The deceased was the appellant’s step-son. The deceased’s mother had two sons with two different men before she married the appellant. On the day the offence was committed the appellant asked his wife to carry a panga in the morning as she went to work and he wanted it to be sharpened and fitted with a handle. The wife attended to those requests. The appellant went to a local trading center the same evening and was said to have consumed a lot of alcohol while his wife was still working at Mugoiri Farmers Co-operative Society where she was employed. She worked till past 6 pm. Later the appellant and the wife started walking home and that was when the appellant took the panga from his wife and threatened to beat and kill her. He continued his aggression when they entered the house. The wife went to inform her mother-in-law about the situation, but when she came back the appellant locked the door of the house and hacked the two children and their mother. The children died but the mother survived and her leg had to be amputated. The appellant blames his actions to too much drink. That would not justify his instructions for a panga to be sharpened and fitted with a handle for him which he gave early in the day when he was not drunk and which would indicate that the drinking was merely a way of arming himself with Dutch courage to commit his vicious crime. He has asked this court to exercise mercy and reduce the sentence passed because he gets chest pain as a result of a motor accident he was involved in during his college days at Kenyatta University College where he obtained a B Ed degree. He would like to join other wananchi in building the nation.

We have been unable to see any merit in this appeal. The sentence awarded was, on the facts of this case lenient and that must have been so because the court had mercy on the appellant. We have no great mercy than what the appellant has already benefited by and in the result we dismiss the appeal.

Delivered at Nairobi this 18th day of November, 1983.

C B MADAN

JUDGE OF APPEAL

A R W HANCOX

JUDGE OF APPEAL

Z R CHESIONI

AG JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR