



IN THE COURT OF APPEAL

AT KISUMU

(Coram: Madan, Law & Potter JJ A)

CRIMINAL APPEAL 74 OF 1979

BETWEEN

EMMANUEL WANYONYIAPPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal for Cotran J on 28th November 1979 in Criminal Case No 51 of 1979)

JUDGMENT

The appellant was convicted on his own plea of “guilty” to manslaughter and was sentenced to imprisonment for eight years.

The deceased’s post mortem examination showed he had a stab wound on the right frontal region of the head, bruises on the chest and subdural haematoma. According to the prosecution case, the deceased was beaten with *rungus* and *pangas*.

In sentencing the appellant the judge described it as a very bad case. He pointed out that in fact two men were killed, the deceased and another person, only upon suspicion of stealing their employer’s tools. The sentence of eight years’ imprisonment cannot be said to be wrong in principle; but we feel that the appellant may have been very much under the influence of the *chang’aa* which he had admittedly consumed on the afternoon of the crime, to the extent of unduly inflaming his resentment against the deceased. In all the circumstances, and having regard to the appellant’s previous good character and to his long period of detention before trial (fifteen months) we feel that his sentence is unduly heavy, and reduce it to one of five years’ imprisonment.

Appeal against sentence allowed.

Dated and delivered at Kisumu this 12th day of June 1980.

C.B MADAN

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JUDGE OF APPEAL

E.J.E LAW

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JUDGE OF APPEAL

K.D POTTER

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JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR