



**IN THE COURT OF APPEAL**

**AT KISUMU**

**(Coram: Madan, Law & Potter JJ A)**

**CRIMINAL APPEAL NO 3 OF 1980**

**BETWEEN**

**ORWOCHI ARANI .....APPELLANT**

**AND**

**REPUBLIC.....RESPONDENT**

*Appeal against the sentence Cotran J on 17th December 1979 in Criminal Case No 88 of 1979 )*

**JUDGMENT OF THE COURT**

The appellant pleaded “Guilty” to manslaughter and was sentenced to four years’ imprisonment.

The circumstances of the killing as outlined by the State counsel to the Court were that, on 17th August 1978, the appellant was thatching his hut. His sisters were rejoicing nearby because there was news of a birth in the family. The deceased came there drunk carrying a *panga*. He asked the women why they were rejoicing. He fell on the appellant and attacked him. A struggle ensued. The appellant got hold of the *panga* and stabbed the deceased with it.

The appellant a young man of twenty-five years of age had been in custody for fifteen months at the time of the sentence.

We consider that the sentence was manifestly excessive. The trouble was started by the deceased. The appellant who was unarmed could not possibly have had any intention of having a fight with him.

We substitute such sentence as will ensure the release of the appellant today.

*Appeal allowed.*

**Dated and delivered at Kisumu this 11th 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**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**