



**IN THE COURT OF APPEAL**

**AT ELDORET**

**(CORAM: MARAGA, MUSINGA & GATEMBU, JJA.)**

**CRIMINAL APPEAL NO. 136 OF 2011**

**BETWEEN**

**EGELAN KAPELO.....APPELLANT**

**AND**

**REPUBLIC.....RESPONDENT**

**(Being an appeal from the judgment of the High Court of Kenya at Kitale, (Koome, J.) dated 9<sup>th</sup> June, 2011,**

**in**

**H.C.C.A No. 1 of 2011)**

**\*\*\*\*\***

**JUDGMENT OF THE COURT**

1. The appellant pleaded guilty to a charge of manslaughter contrary to **section 202** as read with **section 205** of the penal Code. It was alleged that on 2<sup>nd</sup> January 2011 at Kambi Miti Manyatta, Lowerang'ak Location within Turkana County, the appellant unlawfully caused the death of Peter Losuru. He was convicted and sentenced to 15 years' imprisonment.
2. Despite the plea of guilty, the appellant, who was unrepresented, preferred an appeal to this Court against both conviction and sentence.
3. When the appeal came up for hearing, the appellant merely pleaded with this Court to reduce the sentence. On the other hand, **Mr. Mulati**, Principal Prosecution Counsel submitted that under **section 348** of the **Criminal Procedure Code** the appeal is untenable and urged us to dismiss it.
4. **Section 348** of the **Criminal Procedure Code** that was cited to us by Mr. Mulati is not applicable as it relates to appeals from subordinate courts to the High Court. This is an appeal from a judgment delivered by the High Court. **Section 379 (3)** of the **Criminal Procedure Code** states:

**"(3) No appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by the High Court, except as to the extent or legality of his sentence."**

5. The appellant's appeal against conviction does not lie. The appeal against the extent of the sentence that was passed by the trial court is tenable. However, considering the nature of the offence that was committed by the appellant and the sentence that was handed down to him, we are not inclined to interfere with the sentence.

6. Consequently, this appeal is dismissed.

**DATED AT ELDORET THIS 25<sup>TH</sup> DAY OF JUNE 2015**

**D.K.MARAGA**

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**JUDGE OF APPEAL**

**D. K. MUSINGA**

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**JUDGE OF APPEAL**

**S. GATEMBU KAIRU, FCIArb**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**