



IN THE COURT OF APPEAL
AT NAKURU

CORAM: TUNOI, GITHINJI & NYAMU, J.J.A.

CRIMINAL APPEAL NO. 225 OF 2008

BETWEEN

KIPLANGAT RONOH APPELLANT

AND

REPUBLIC RESPONDENT

(An appeal from the judgment of the High Court of Kenya at Nakuru (Koome, J) dated 14th November, 2008

in

HCCR.C NO. 42 OF 2005)

JUDGMENT OF THE COURT

The appellant was charged before the superior court with murder contrary to **Section 203 as read with Section 204 of the Penal Code**. The particulars of the charged alleged that on the night of 22nd and 23rd April, 2005, the appellant murdered **Erick Katasi Yatich**.

The appellant pleaded not guilty to the charge but after trial the superior court (Koome J) convicted the appellant of the lesser offence of manslaughter and on 14th November, 2008 sentenced the appellant to ten (10) years imprisonment. This was apparently under **Section 202 (1) as read with Section 205 of the Penal Code** although the learned Judge did not say so.

The appeal is against sentence only. There are five grounds of appeal. In the first ground of appeal, the appellant states:

“That ... I pleaded guilty to the charge and I firmly maintain the same.”

So the appellant admits that he unlawfully caused the death of the deceased. In the second, third, fourth and fifth grounds of appeal, the appellant states that the sentence of 10 years imprisonment is manifestly harsh and oppressive; that the sentence will reduce his life considering that the living conditions in prison are inhuman; that sentence should be reduced to the extent that will enable him to go home, and, that as he is the only bread winner, his family is undergoing numerous problems.

We have considered the circumstances under which the appellant unlawfully caused the death of

the deceased including, among other things, that the appellant and deceased were casual workers; that they were friends; that they were living in the same house; that the deceased and the appellant quarrelled over maize meal which quarrel degenerated into a fight; that the deceased sustained several injuries, including a severe head injury; that the deceased also inflicted injuries on the appellant. It is clear, however, that the appellant inflicted several injuries on the deceased the fatal one being a severe cut wound on the scalp.

Having regard to all the circumstances of the case and to the fact that the offence carried a life imprisonment we, with respect, agree with submissions of Mr Omutelema, learned Senior Principal State Counsel, that the sentence was neither harsh nor manifestly excessive. Accordingly the appeal has no merit and it is dismissed in its entirety.

Dated and delivered at Nakuru this 21st day of February, 2011.

P. K. TUNOI

JUDGE OF APPEAL

E M. GITHINJI

JUDGE OF APPEAL

J. G. NYAMU

JUDGE OF APPEAL

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

DEPUTY REGISTRAR