



IN THE COURT OF APPEAL OF KENYA

AT NYERI

Criminal Appeal 254 of 2008

BETWEEN

EDWARD MURIITHI SAMUEL.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a conviction and sentence of the High Court of Kenya at
Nyeri (Makhandia ,J) dated 23rd September 2008

in

H.C.CR.C. NO 16 OF 2008

JUDGMENT OF THE COURT

EDWARD MURIITHI SAMUEL, the appellant, was convicted by the High Court of Kenya at Nyeri (Makhandia J) on 23rd September 2008 on his own plea of guilty to manslaughter contrary to **section 202** as read with **section 205** of the Penal Code and sentenced to seven (7) years imprisonment.

The appellant, apparently a young man of 25 years of age, was spotted hopelessly drunk and aimlessly roaming around at about noon on 5th February 2008 at Sagana Township in Kirinyaga District of Central Province. Soon thereafter, two other youths of the same age joined him. They, too, were very drunk. The appellant picked a quarrel with the deceased, Isaac Ndegwa Muthoni, over Shs. 50/-. This led to the appellant hitting the deceased on the head with a blunt object. The deceased fell down and went into a coma. He died on his way to the hospital. The cause of death according to the postmortem carried out on the body of the deceased was a head injury due to a blunt head trauma.

The learned trial Judge in sentencing the appellant observed that:

“Of late these kind of offences have been on the upswing in this jurisdiction. Young men have taken to alcohol instead of working on the farms or engaging themselves in income generating activities.”

And that:

“There is a whole generation that this country is losing due to vagaries of alcohol. It is the duty of this court therefore to intervene and halt this obviously destructive trend. This country cannot afford to continue loosing its citizens due to uncontrolled intake of alcohol and other substances by those who are expected to take over the leadership of this country sooner or later.”

The appellant pleads before us in his appeal that the sentence imposed on him was harsh and excessive in the circumstances since the fight occurred when he and the deceased were drunk.

Taking everything into account, we are far from being satisfied that in all the circumstances of the case, the sentence of seven (7) years is so manifestly excessive or harsh as to amount to a miscarriage of justice. In our view, the sentence was well

merited and we see no reason for intervention by this court.
Accordingly, we reject this appeal which we hereby order that it be dismissed.

Dated and delivered at Nyeri this 21st day of May 2010.

P. K. TUNOI

.....
JUDGE OF APPEAL

E. M. GITHINJI

.....
JUDGE OF APPEAL

J. W. ONYANGO OTIENO

.....
JUDGE OF APPEAL

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

DEPUTY REGISTRAR