



REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT NAKURU

Criminal Appeal 173 of 2004

CHARLES KIPRONO LANGAT APPELLANT

AND

REPUBLIC RESPONDENT

(Appeal from a sentence of the High Court of Kenya at Nakuru (Mr. Justice Musinga) dated 15th July, 2004

in

H.C.CR.C. NO. 140 OF 2003)

JUDGMENT OF THE COURT

In this appeal the appellant had pleaded guilty to the offence of Manslaughter contrary to **section 202** as read with **section 205** of the Penal Code. He was convicted and sentenced to **7 years** imprisonment by the High Court of Kenya sitting at Nakuru. It is against this sentence that he now appeals to this Court. The thrust of his appeal both in his five grounds of appeal and his submission before us is that he was drunk when he committed the offence in respect of which he pleaded guilty, convicted and sentenced as is set out above and that he is the only provider for his children which he cannot effectively do while incarcerated in prison besides his continued ill health. He therefore seeks a reduction of his **7 years** imprisonment pleading that he was drinking a native brew with the deceased whom he thought had taken his money – **K.Shs.500/=**.

Counsel for the respondent, Mr. P.M. Gumo, however, submitted that the sentence metted out on the appellant should be maintained as all the circumstances of the case against the appellant were taken into consideration.

While sentencing the appellant, the learned trial judge observed that he had taken into account the mitigating factors as stated by counsel for the appellant. The learned trial judge, however, hastened to add that the appellant was not very drunk at the time he committed the offence to take the law into his own hands and that he should have reported the matter to the police.

The appellant had stabbed the deceased on the right side of the neck with a knife transecting the

deceased's carotid artery and the right jugular vein leading to severe bleeding and cardio pulmonary collapse which caused his death. Considering the facts before the learned trial judge who held that the appellant was not very drunk when he stabbed the deceased on the right side of the neck and that instead he should have reported the matter to the police, we think that in these circumstances, the sentence of **7 years** imprisonment was neither harsh nor manifestly excessive. In the result, the appellant's appeal is dismissed in its entirety.

Dated and delivered at Nakuru this 27th day of February, 2007.

J.E. GICHERU

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CHIEF JUSTICE

S.E.O. BOSIRE

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JUDGE OF APPEAL

E.M. GITHINJI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR