



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL**

**AT NAKURU**

**(CORAM: TUNOI, O’KUBASU & WAKI, J.J.A.)**

**Criminal Appeal 60 of 2004**

**BETWEEN**

**STEPHEN KIBET KIRUI ..... APPELLANT**

**AND**

**REPUBLIC .....RESPONDENT**

(Appeal from a sentence of the High Court of Kenya at Nakuru (Justice M. Apondi) dated 3rdDecember, 2003)

**JUDGMENT OF THE COURT**

The appellant, Stephen Kibet Kirui was convicted on his own plea of guilty on a charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code and sentenced to ten (10) years imprisonment. The appellant killed his own child aged 1 year old.

The facts as admitted by the appellant were that on 5th February, 2002 at 7:30 p.m. at Teret Village within Nakuru District, the appellant while armed with a spear went to his wife’s house where a quarrel ensued. The appellant threw the spear towards his wife which spear injured both the appellant’s wife and the young child. The child died as a result of the injury sustained. The appellant was arrested and charged with murder which charge was reduced to manslaughter after the appellant offered a plea of guilty on that lesser charge.

The appellant now appeals to this Court but his appeal is against sentence only. He asks for forgiveness saying that he suffers from T.B. We have considered what the appellant has told us. These facts were taken into consideration by the superior court when it sentenced the appellant. The circumstances of the case show that the appellant killed his own child aged only one year old. This was uncalled for behaviour on part of the appellant. The sentence imposed was neither harsh nor excessive in the circumstances of the case. We have no reason to interfere. Accordingly, this appeal is dismissed.

**DATED and DELIVERED at NAKURU this 26th day of September, 2005.**

**P.K. TUNOI**

**JUDGE OF APPEAL**

**E.O. O’KUBASU**

**JUDGE OF APPEAL**

**P.N. WAKI**

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**