



IN THE COURT OF APPEAL

AT ELDORET

CORAM: TUNOI, O’KUBASU & WAKI, J.J.A

CRIMINAL APPEAL 188 OF 2004

BETWEEN

WILLIAM POWON LOITASIWA.....APPELLANT

AND

REPUBLIC.....RESPONDENT

(Appeal from a sentence of the High Court of Kenya at Kitale (Karanja, J) dated 28th July, 2004

in

H.C.CR.C. NO. 25 OF 2002)

JUDGMENT OF THE COURT

The appellant before us, **WILLIAM POWON LOITASIWA**, was initially charged with the offence of murder but it was reduced to one of manslaughter contrary to **Section 202** as read with **Section 205** of the Penal Code. He pleaded guilty to that offence and was convicted accordingly and sentenced to serve 7 (seven) years imprisonment. It had been alleged that on the 26th day of May, 2002 at **Mitume Estate** in **Trans-Nzoia District** within the Rift Valley Province, he unlawfully killed **Lucy Nyambura**. The deceased was his estranged wife and she had custody of the three children of their marriage.

In the appeal before us, the conviction is not challenged. But the appellant pleads for mercy and reduction of the sentence on the grounds that he is truly remorseful; suffers from hemorrhoids and arthritis; his

parents are deceased; and he wishes to take care of, and educate his three children. These however are the self-same mitigating circumstances that were considered by the superior court and it came to the conclusion that the appellant used a lethal weapon to end the life of a young woman. The offence carries a life sentence. We have considered the plea made before us and we are satisfied that the sentences meted out to the appellant was neither harsh nor excessive in all the circumstances of this case.

The appeal has no merit and is dismissed.

DATED and DELIVERED at ELDORET this 20th day of September, 2005.

P.K. TUNOI

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JUDGE OF APPEAL

E. O. O’KUBASU

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JUDGE OF APPEAL

P.N. WAKI

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR