



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI**

(CORAM: KWACH, SHAH & O'KUBASU, JJ.A)

CRIMINAL APPEAL NO. 30 OF 2000

BETWEEN

JOHN KIBE MURIMA APPELLANT

AND

REPUBLIC RESPONDENT

**(Appeal from a conviction, Judgment of the High Court of Kenya at Nairobi (Mr. Justice Etyang)
dated 10th November, 1999)**

in

H.C.C.C NO. 47 OF 1999)

JUDGMENT OF THE COURT

The appellant, John Kibe Murima, was convicted on his own plea of guilty on a charge of manslaughter contrary to section 202(1) as read with section 205 of the Penal Code and sentenced to ten years imprisonment. The facts as stated by the learned State Counsel before the superior court (Etyang J) were as follows:-

On the 25th December, 1997 the appellant was drinking with his four friends at Gikambura Trading Centre. The appellant and his friends then proceeded to the appellant's home. The appellant sent his wife, Salome Njoki, to the shop and when Salome came back she found one of appellant's friends crying. On inquiring from the appellant what was happening, the appellant started beating her. When the four men tried to intervene, the appellant chased them away. The appellant's wife then ran to the deceased's house and the appellant followed her. The deceased went out to look for assistance and on coming he found the appellant damaging his (deceased's) property. The appellant who was armed with a spear and a club attacked the deceased. Appellant's brother who tried to intervene was hit together with one Francis Kinyanjui. The appellant then set upon the deceased and fatally hit him on the head. The body of the deceased was removed to the City Mortuary where postmortem examination was conducted. The cause of death was found to be intracranial haemorrhage due to fractures of the head consistent with a blunt object.

The appellant was arrested, examined and found to be mentally fit and aged about 27 years old. He was originally charged with murder but this was reduced to manslaughter. He admitted the facts as narrated by the learned State Counsel. The learned trial Judge considered all the facts presented to him and sentenced

the appellant to ten years imprisonment. The appellant was described as "an extremely violent man who was the aggressor throughout". The learned Judge observed that the appellant deserved to be severely punished.

The appellant who is unrepresented in this appeal told us that he killed his father-in-law but as he was drunk he did not know what was happening. The appellant also complained that the sentence of 10 years imprisonment was too long.

We have carefully considered this appeal and in our view the appellant's complaint is that the sentence imposed (10 years imprisonment) was too severe in the circumstances of the case. On our part we are satisfied that the facts as stated by the learned State Counsel and admitted by the appellant disclose the offence of manslaughter. He was properly convicted on his own plea of guilty. The sentence imposed was lawful and in the circumstances not excessive. The learned Judge considered all the facts before him. It has not been shown that other factors which ought not to have been considered were taken into account.

In view of the foregoing we find no merit in this appeal and the same is dismissed.

Delivered and dated at Nairobi this 30th day of June, 2000.

R O. KWACH

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JUDGE OF APPEAL

A. B. SHAH

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JUDGE OF APPEAL

E. O. O'KUBASU

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR