



Director of Public Prosecution v Musikoye (Criminal Case E27 of 2018) [2024] KEHC 7632 (KLR) (25 June 2024) (Sentence)

Neutral citation: [2024] KEHC 7632 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E27 OF 2018
SC CHIRCHIR, J
JUNE 25, 2024**

BETWEEN

DIRECTOR OF PUBLIC PROSECUTION REPUBLIC

AND

JOSHUA MUSIKOYE ACCUSED

SENTENCE

- 1. The accused herein was convicted on 1/2/2024 for murdering his wife. Sentencing was deferred to allow the Director of probation and After services- Kakamega County do a social inquiry on the convict.

Accused submissions

- 2. Through his advocate Mr Matete the accused submits that he regrets his actions; that he had children with the deceased and he is currently the only provider for them; That he loved the deceased and the killing was not premeditated.

He also told the court that he stayed in custody for one year before pending released on bond.

He further stated that he was a chief; and finally he seeks for leniency. Prosecution submissions

- 3. Ms osoro for the state refuted the accused’s submission on being the sole bread winner; that indeed the deceased was the bread winner, as the accused herein was jobless. She further submits that the accused acted as a chief for only a short stint as he was never confirmed in the position. The prosecutor then referred the court to the probation report in which the probation officer pointed out that the accused was temperamental; that the children are still in a children’s home since the death of their mother ; and that even though the accused was released on bond in 2019, he has never gone for his children’s from the children’s home.

- 4. The prosecution has urged the court to impose the maximum sentence for the offence.



5. I have considered the parties' submissions as well as the social inquiry report. The accused has told the court that he is remorseful.
6. The prosecution was silent, on whether there were previous conviction ,and therefore this court will treat the accused as a first offender.
7. Remorse and being a first offender and mitigation factors.
8. The accused has also told the court that he would want to be given a chance to take care of his children who now have him alone as the provider. However the social inquiry report indicate that the accused's children are in a children's home and the prosecution's submissions that he has never gone for his children despite being out on bond since 2019 was not met with any rebuttal. Therefore ,I have no basis of taking this plea into account ,as a mitigating factor.
9. However, there are also aggravating factors in this case. This was a case of domestic violence and to deter this vice, a deterrent sentence is necessary. The probation officers report also indicated that the accused is known to be temperamental. A custodial sentence will allow the accused to do some introspection in regard, and a chance to reform, without being of any further danger to society.
10. This court cannot also loose sight of the fact that a life was lost. The sentence this court ought to pass must speak to the sanctity of human life.
11. Taking the mitigating and aggravating factors into account. I hereby sentence the accused person to 30 years imprisonment.
12. In arriving at the above sentence, have taken into consideration the fact that the accused was in custody from the time he was charged until 15/5/2019 and therefore he spent about a year in custody.
13. Right of Appeal -14 days.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 25TH DAY OF JUNE, 2024.

S. CHIRCHIR

JUDGE

In the presence of;

Godwin- Court Assistant

The Accused

Ms Osoro for the State

