



REPUBLIC OF KENYA



**Republic v Muriithi (Criminal Case 1 of 2018)
[2023] KEHC 21911 (KLR) (17 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 21911 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL CASE 1 OF 2018
FN MUCHEMI, J
AUGUST 17, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL KAGIRI MURIITHI ACCUSED

RULING

1. On the 25th day of March 2022, the accused was convicted of with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*.
2. In mitigation through his defence counsel Lucy Mwai whose brief was held by Mr. Njuguna Kimani, the accused said he is remorseful and has a family with three children being the sole breadwinner. He further said he is aged 38 years and pleaded for leniency.
3. The court called for pre-sentence report which was filed on June 29, 2023. From the report, the accused is still in denial of the offence even after conviction. The probation officer found him indifferent and not capable of benefiting from a non-custodial sentence.
4. The evidence on record did not reveal the motive of murder. However, the deceased was taken from his home at Othaya by the accused and others not before the court. He was taken to Chorongi near Nyeri town where he was beaten up using iron bars and runkus inflicting severe injuries that resulted to his death. The body of the deceased was recovered at the scene the following morning.
5. It is imperative to state that this court has the discretion to mete out any sentence other than death sentence based on the principles in the Supreme Court Petition of *Francis Muruatetu & another v Republic* No 15 of 2017. Section 204 of the *Penal Code* provides for death sentence for the offence of murder but the *Muruatetu* Petition has introduced jurisprudence that courts the mandatory nature of death sentence is unconstitutional. The accused is entitled to benefit from this growth of jurisprudence.



6. The offence was allegedly committed on January 10, 2018 and the accused was arraigned in this court on 22/01/2018. The record shows that the accused was released on bond on January 17, 2019. He was therefore incarcerated in prison remand for about one year.
7. I proceed to sentence the accused having taken into consideration all the foregoing factors

Sentence

8. He is sentenced to Nineteen(19) years imprisonment. I have taken into account that the accused spent one(1) year in custody.

Right of appeal.

DATED AND SIGNED AT NYERI THIS 17TH DAY OF AUGUST, 2023.

F. MUCHEMI

JUDGE

Ruling delivered through video link this 17th day of August , 2023

