



Republic v Nang'eni (Criminal Case 49 of 2014)
[2023] KEHC 24800 (KLR) (26 October 2023) (Sentence)

Neutral citation: [2023] KEHC 24800 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 49 OF 2014
SC CHIRCHIR, J
OCTOBER 26, 2023

BETWEEN

REPUBLIC PROSECUTOR

AND

ROBAI BUYOMBE NANG'ENI ACCUSED

SENTENCE

1. The accused herein was convicted for murder by Justice Musyoka on 2.6.202. Consequently, the matter has been placed before me for sentencing only.

Accused's Submissions

2. Through her counsel Ms Andia, the accused submitted that she was a young mother aged 33 years, with children ranging from ages 16 years to 10 months old. The ten month- old is still breastfeeding; that she has learnt her lesson, during the 10 years that the case had been in court. She also states that in spite facing the present charges, she has been able to raise her children jointly with the family of the deceased. She pleads for a chance to take care of her children , leniency and a chance to mend her ways.

Prosecution's submissions

3. Ms Osoro for the state ,submits that this was a case of premeditated murder as it was a case of retaliation against her deceased's husband for allegedly having an affair with another woman. The prosecution further submits that according to the witnesses' accounts, she first chased the woman who was allegedly having an affair with the husband, then came back to attack the deceased.
4. It is also submitted that she also had time to go looking for a knife to use it to stab the deceased. She therefore had had time to think through what she was about to do. The prosecution proposes a custodial sentence.



Victim's family submissions

5. Edith Nasimiyu Serengo ID No 63XXX83 introduced herself as the mother of the deceased and she requested to address court. Her Application was allowed. She told the court that she is the one taking care of the accused's children, save the youngest and therefore the accused should be given a custodial sentence.

Presentencing Report

6. The report paints a picture of an individual who otherwise had strong community ties, until the incident. After the incident, the same community no longer wants her back. There were attempts to lynch her when the news of her husband's murder broke out. The deceased's family has not forgiven her as well

Determination

7. I have considered the parties' submissions. The accused is said to be remorseful. She has responsibilities to her 3 young children and she has prayed for leniency. All the above are mitigating factors pursuant to paragraph 23.8 of the Judiciary sentencing policy guidelines. However, the victims mother told the court that she has taken up the responsibility of the accused's first two children.
8. The prosecution on the other hand, insists that this was a premeditated murder ; that there is evidence that the accused had ample time to bring herself under control but she did not. I have perused the record and noted that the victim was the accused's husband. This was therefore a case of domestic violence and the sentence passed must send out a message of deterrence of this rampant vice.
9. I also agree with the prosecution that the murder was premeditated. There is evidence that, even though the two had some marital challenges, her conduct did not prepare the deceased for what was coming. She gave him food and water to wash his hands and when the deceased started eating, she suddenly got a knife and stabbed him. The element of surprise was well planned. Serving food was meant not only to disarm the deceased but also to render him unable to defend himself. The murder was well executed. The manner in which the offence was committed therefore aggravated the accused's offence.
10. Considering the above opposing factors, I hereby sentence the accused to 30 years in prison.
11. Right of Appeal, 14 days

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 26TH DAY OF OCTOBER 2023.

S. CHIRCHIR

JUDGE

In the presence of:

Ms. Osoro for DPP

Accused- present.

