



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Rono alias Malakwen & 2 others (Criminal Case 27 of 2018)
[2023] KEHC 26237 (KLR) (28 November 2023) (Sentence)**

Neutral citation: [2023] KEHC 26237 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE 27 OF 2018
RE ABURILI, J
NOVEMBER 28, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

ISAAC KIPTOO RONO ALIAS MALAKWEN 1ST ACCUSED

PIUS KIPKORIR MOSONIK (ACQUITTED) 2ND ACCUSED

JULIUS KIPYEGON MENGICH 3RD ACCUSED

SENTENCE

1. The two accused persons herein Isaac Kiptoo Rono alias Malakwen and Julius Kipkorir Mengich have been convicted of the offence of murder as charged under section 203 of the *Penal Code*. I have considered the mitigations by the accused persons who are not first offenders as they admit that they are each serving twenty (20) year prison terms for the offence of attempted murder, a case related to the present case in Kisumu CM Cr Case No 61 of 2020.
2. I have also considered the circumstances under which the offence was committed and the manner in which the deceased George Anyango Obala Alias Bengo met his death.
3. The offence was aggravated in nature and in my view, the deceased did not deserve to be killed in that manner yet he posed no risk to the two accused persons as he was not armed at all.
4. The two accused persons have families to care for yes and more so, children who may now be innocently suffering because of the mistakes of their fathers who committed the heinous offence herein in a beastly manner.
5. No person has the right to take away the life of another. Live and let live. The deceased deserved to live and left behind a mourning family that loved him very much. The accused persons greed for land that did not belong to them made them arm themselves to the teeth and to eliminate an innocent life. There



are lawful means for acquisition of property and killing the farm manager or owner of that property I is not one of those means by which one may acquire property.

6. I have taken into account the Judiciary Policy Sentencing Guidelines on the objects and purposes of 'punishment. I have also considered the decision in *Francis Karioko Muruatetu & another vs Republic* [2017] eKLR which binds and reminds this court that despite the mandatory nature of death sentence stipulated in Section 204 of the *Penal Code*, this court retains the discretion in meting out appropriate sentence, having regard to the circumstances of each case and the mitigations.
7. For the above reasons, I find that the appropriate sentence to be meted out to the two accused persons herein is custodial sentence.
8. I exercise discretion and sentence Isaac Kiptoo Rono alias Malakwen to Life imprisonment. I sentence Julius Kipyegon Mengich to serve Life imprisonment.
9. Right of appeal is fourteen (14) days of today. I so order.
10. This file is now closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 28TH DAY OF NOVEMBER, 2023

R. E. ABURILI

JUDGE

