



**Republic v Kamau (Criminal Case 12 of 2018)  
[2023] KEHC 27064 (KLR) (21 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 27064 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
CRIMINAL CASE 12 OF 2018  
CM KARIUKI, J  
DECEMBER 21, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOEL GACHAU KAMAU ..... ACCUSED**

**SENTENCE**

1. The Accused has been convicted upon being found guilty of the offense of murder contrary to section 203 as read with section 204 of the [Penal Code](#).
2. The penalty of murder offense is now prescribed by the [Penal Code](#) section 204 and the Judicial decision to be a maximum for death by hanging. However, the court has to weigh all the circumstances to determine the appropriate sentence, if not the Maximum Sentence.
3. The Accused is said by the Prosecution to be a first offender. However, the circumstances of the murder herein are said by the Prosecution to be aggravating to deserve a severe punishment. There was no proposed penalty by the Prosecution.
4. However, the defense in mitigation submissions proposed an imprisonment of fifteen years (15) years to enable the accused to be rehabilitated.
5. It is based on a submission that the behavior of the accused at the time of the incident and after that exhibited an inclination to be a person of insane mind or mental sickness.
6. However, in the judgment findings, the court concluded that there was no evidence to back up a theory of the accused behaviour to have been of a person of unsound mind.
7. This is where the accused killed his own mother and his sister's child in cold blood murder without any provocation.



8. The Doctor's (PW 4) report shows the victims had multiple wounds and fractures of the skulls due to trauma inflicted by a sharp object due to the accused's heinous crime. The members of the public were so enraged that the police rescued him while he was being subjected to an aborted lynching act.
9. People had decided to administer mob justice to lynch him, for he did not deserve to live in the circumstances of the court.
10. The court has taken into account the objectives of the sentence and *modus operandi* of the commission of the crime herein and the fact that two lives were lost without any justification.
11. Despite being a first offender, the court finds that the accused deserves a severe sentence.
12. The court would have awarded the accused a death sentence, but since Kenya signed a moratorium on death sentences, no executions have taken place in Kenya. It would be an academic exercise to sentence a person accused to death in the circumstance. On the life sentence, the court in Criminal Appeal No 22 of 2018 *Evans Nyamari Ayako v R*, The Court of Appeal sitting in Kisumu on 8.12.2023 held that life sentence means a maximum of 30 years.
  - i. Thus, the court awards the accused a jail sentence for Thirty (30) years imprisonment from the date of 29.6.2018 when he was charged in court.
  - ii. Right of appeal explained.

**DATED, SIGNED AND DELIVERED AT NYANDARUA THIS 21<sup>ST</sup> DAY OF DECEMBER 2023**

.....

**C KARIUKI**

**JUDGE**

