



**Republic v Oyombera (Criminal Case 5 of 2018)
[2023] KEHC 27142 (KLR) (19 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 27142 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 5 OF 2018
SC CHIRCHIR, J
DECEMBER 19, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL OMUKUBA OYOMBERA ACCUSED

SENTENCE

1. The accused herein was charged, tried and convicted of the murder of Harrison Nyikuli Andeche.
2. Mitigating through Mr. Otyseno Advocate, the Accused told the court he regrets his action; that he is remorseful, and prays for “a second chance at life”. He also told the court that he was a first offender.
3. Ms. Osoro for the Director of Public Prosecution, poured water on the accused’s plea of remorse, arguing that the accused cannot allege that he is remorseful yet he is still denying the offence. The prosecutor contends that the Accused cannot be rehabilitated when he is still unable to accept his faults.
4. She further submits that witnesses’ accounts show that this was a vengeful act. The counsel further referred to the presentencing report which indicate that the society did not want him back.
5. It is the prosecution’s final submission that, the aggravating factors in this case outweigh the mitigating ones.
6. I have perused the presentencing report and the witnesses’ accounts of the events surrounding this case. It is evident that this was a well-planned and premeditated murder.
7. I further agree with the prosecution that, notwithstanding what he has told the court in mitigation, his conduct does not suggest remorse, seeing that he is still insisting that he never committed the crime.
8. His history of crime and intimidation too calls for rehabilitation, away from the community.



9. I have however noted that despite what is stated in the presentencing report, there was no evidence of a previous conviction that was presented to the court. I have also taken into consideration the fact that he has four children to take care of, including a child with special needs.
10. However, the victim too, lost her husband and according to the presentencing report, she is still traumatized by the killing of her husband.
11. Taking into consideration all a foregoing, I hereby sentence the accused to 40 years in prison. The sentence will take effect from the date of conviction.
12. Right of Appeal- 14 days.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 19TH DAY OF DECEMBER 2023.

S. CHIRCHIR

JUDGE

In the presence of:

Ms. Osoro for DPP

Accused: present.

