



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL CASE NUMBER 21 OF 2020

REPUBLICODPP

VERSUS

MONICA WANJIKU WANGOIACCUSED

RULING

1. Monica Wanjiku Wangoi is charged with **Murder Contrary to Section 203 as read with 204 of the Penal Code.**
2. That on 21st April 2020 at Daraja Mbili Village Molo Sub County, within Nakuru County, she murdered William Karau Wangui.
3. When she was presented to court on 15th May 2020 we could not take plea because we did not have the psychiatrist report. The same was availed on 5th March 2021 and it indicated that the accused suffered from mild intellectual capacity with schizophrenia and there could not stand trial.
4. The court then embarked through the Probation and After Care Services (PACS) to trace her relatives so that if possible she could be released home on treatment. At the same time the court learnt that when she was arrested she was pregnant, had given birth in remand custody but had lost the baby.
5. The prosecution on 19th October 2021 told the court that they had written to court asking for a committal order to Mathare. By then there was a further note that the accused suffered some mental retardation. The court was of the view that an order for committal would have to come from a medical practitioner. I directed that she be taken to hospital for a psychiatric assessment.
6. Having perused both the letter from ODPP and the doctor's recommendation.

3rd November 2021 (DIRECTIONS)

Before Hon. Mumbua T. Matheka – Judge

Ms. Murunga for state

C/A Edna

Interpretation English/Kiswahili

Accused Present virtually

Ms. Kiama for accused

Court: I have perused the letter from ODPP dated 22nd June 2021 ref. ODPP/NKU/MUR/21/2020 where it is conceded that Monica Wanjiku Wangoi is in in “custody to date yet she is neither on trial nor is she serving sentence. This is a contravention of her Constitutional Rights to a fair trial.” The DPP seeks an order that she be admitted to Mathare Hospital for treatment and determination of her fitness to stand trial or release on bond.

I have also perused the medical report dated 20th January 2021 where the psychiatrist states:-

“I am of the opinion that Monica Wanjiku Wangoi has mild intellectual disability with schizophrenia and therefore cannot stand trial. She is on a follow up for schizophrenia well managed she needs supportive therapy for intellectual disability.”

Taking into consideration the doctor’s finding and recommendation it is not clear to this court on what basis the DPP is making the application for order of committal to Mathare Hospital for treatment. I think that is a recommendation that should come from the psychiatrist.

In the circumstances, and to enable the court determine the process I direct that the accused person be escorted back to the psychiatrist for a more detailed report to be filed on or before the 16th November 2021 on the following;

- 1) Whether the accused person requires committal to mental health institution e.g. Mathare, and if so, for how long.**
- 2) Whether, with the intellectual disability described she will ever be able to understand the court proceedings for her to stand trial.**

This Order be typed, served on Officer in Charge, Nakuru Women Prison for compliance.

Mention on 16th November 2021 for further directions.

MUMBUA T. MATHEKA

JUDGE

03/11/2021”

7. I have now received the report from the Probation and Aftercare Services. The report indicates that the accused is nineteen (19) years old. That in 2018 she suffered a mental breakdown, was admitted to Gilgil Mental Hospital for four (4) months, but upon discharge there was no follow up on medication, and that was the reason for the relapse. The family is reluctant to have her return home.

8. In view of the circumstances of this case, where the deceased was the accused’s younger brother, and that she may still be a danger to other people, it is only in her best interests that she be committed to hospital for treatment. However I doubt that she warrants a committal for life, yet prior to committing this offence, she appears to have been living normally at home, participating in day to day activities. Someone even made her pregnant in her condition and yet the family did not appear to be concerned.

9. That besides it is my view that the mental illness calls for treatment, and the family ought not to be allowed to run away from her. Hence, I order that the accused be committed to Mathare Referral Mental Hospital for treatment.

10. The matter is to be mentioned after three (3) months for progress report.

11. Order be served on the Officer in Charge Nakuru Women Prison, Medical Officer in Charge, Mathare Referral Mental Hospital for compliance.

12. Mention on the 18th May 2022 for Progress Report.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 31ST DAY OF JANUARY, 2022.

MUMBUA T. MATHEKA

JUDGE

IN THE PRESENCE OF:-

COURT ASSISTANT EDNA

FOR STATE: MS. MURUNGA

FOR ACCUSED: N/A

ACCUSED: PRESENT AND COHERENT TODAY