



State v Janeno (Criminal Case E011 of 2021) [2022] KEHC 382 (KLR) (25 April 2022) (Ruling)

Neutral citation: [2022] KEHC 382 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E011 OF 2021
RE ABURILI, J
APRIL 25, 2022**

BETWEEN

STATE PROSECUTION

AND

JACK OMOLLO JANENO ACCUSED

RULING

1. On 30/3/2022, this court delivered judgment in this case where it found the accused person Jack Omollo Janeno Guilty of the offence of Murder of the deceased Ishani Shanel, contrary to section 203 of the [Penal Code](#) and convicted him accordingly.
2. The court then heard mitigations from his counsel Mr. Otongo and from the accused in person. The accused is a first offender. He is said to be remorseful over the loss of the young child. He is married with 4 daughters and an aged mother of 85 years to care for.
3. That he wanted more children that is why he married another wife. He is 50 years old. He is the bread winner for the family.
4. In the Presentence report filed by the probation officer, the accused is said to be hardworking and minds his business. He is a responsible parent who takes care of his immediate family needs and orphans left behind by his sisters who died.
5. He is said to have been infuriated by the conduct of his second wife and mother to the deceased, calling her boyfriend all the time. The accused person told the Probation Officer o being interviewed that he was drunk at the time of the incident and that he does not know what transpired.
6. According to the probation officer's report, the family of the mother to the deceased have asked the accused to compensate them Kshs 300,000 in order for them to withdraw this case from Court.
7. I have considered all the above and circumstances under which the innocent child lost its life through the cruel hands of the accused who should have simply directed the child's mother to take the child



away to avoid harm. I have also considered the mitigations. I however must caution the victim's mother and her family that this is not a case where they can claim for compensation in lieu for withdrawal of the case from Court. This is not a case for withdrawal by the complainant as the victim is dead.

8. The Probation Officer recommends a non-custodial sentence to enable the accused person care for his family. However, life is sacrosanct. The accused did not Plea bargain for a lesser offence. He denied the offence throughout and now he claims that he was under the influence of alcohol and that he did not know what transpired, which allegation is coming too late in the day and is immaterial at this stage. The innocent child did no wrong to be butchered the way the accused butchered her to death. Custodial sentence is necessary in the circumstances of this case. Punishment for murder is death. However, the Supreme Court in the case of *Francis Karioko Muruatetu & another v Republic* [2017] eKLR made it clear that death sentence is not mandatory, depending on the circumstances of each case and the mitigations which, in this case, this court has considered.
9. I hereby exercise discretion and sentence the accused person herein Jack Omollo Janeno to serve fifteen (15) years imprisonment, taking into account the number of days spent in remand custody.
10. Right of Appeal is 14 days from today.
11. File closed.

DATED, SIGNED AND DELIVERED AT SIAYA IN OPEN COURT, THIS 25TH DAY OF APRIL 2022

R.E. ABURILI

JUDGE

