



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL CASE NO. 9 OF 2020**

**STATE.....PROSECUTION**

**VERSUS**

**WAO.....ACCUSED**

**RULING ON SENTENCE**

1. On 28/3/2022, this court delivered judgment in this case finding the accused person WAO Guilty of the Murder of MOO and convicted her accordingly. The accused and her counsel mitigated after the prosecution indicated that there is no previous criminal record on the accused hence she is a first offender.
2. In mitigation, the accused and her advocate Mr. Oduol Achar addressed the court to the effect that she is a single mother, is a first offender, she has a young child to take care of. She is school going and she has a future ahead of her. She was rendered homeless, her mother is also a single mother. A custodial sentence would jeopardise her future.
3. In her own words, the accused mitigated saying she is like a parent in their house. That her mother was injured and is down. That she works in a shop and that if she is jailed, her mother and child will be in problems. She stated that she is 19 years old and when the incident took place, she was 18 years old.
4. The court then ordered for a Presentence report and Victim Impact Statements from the victim's family.
5. I have considered the above mitigations, the circumstances under which the offence was committed and the Presentence report.
6. From the Presentence report dated 18/4/2022, the accused is 20 years old and a single parent with one child to look after. She has a family who are willing to stand with her if she is considered for non-custodial sentence. She sat for her exams - Form Four and is willing to continue with her education while fending for her child. She now lives with her maternal relatives.
7. However, the report indicates that the home environment is not conducive for her rehabilitation as the mob set their house ablaze after the death of the deceased. That the family of the deceased is pained following this untimely death. That the two families are related and had long standing feuds over land a therefore the deceased's murder exacerbated the problem. The community is not willing to welcome the accused and her family. Her mother is a widow. Her father died in 2009. She has 5 siblings who are all girls.
8. I have considered the age of the accused person and the fact that she is a first offender. There is no remorse on the part of the accused person for the loss of a precious life of a close relative thereby adding the pain to his relatives and their unwillingness to make peace with her and her immediate family members. From my own observation of the accused convict herein, she has no respect for life. For now, she is more concerned about her own liberty and progress forgetting that the deceased too deserved to live and had a family that loved him such that his death has traumatized them.
9. The deceased was a young person aged only 19 years. He had a whole life ahead of him. From his father's testimony, he used to assist and coach the accused herein in Biology. The deceased did not deserve to die such a cruel death simply for disciplining a young child who had abused him and whom he did not even harm. The accused, perhaps, due to ignorance and young age, has no parenting skills and that is why her child, from the evidence on record, as young as she was, was fond of abusing the deceased without the accused prevailing upon the young child and teaching the child that it was wrong to abuse people. Instead, the accused attacked the deceased for disciplining her child. Having considered all the above and the Judiciary Policy Sentencing Guidelines and objectives and principles of sentencing as espoused in the *Francis Muruatetu v Republic [2017] e KLR* case, I hereby exercise discretion and sentence the accused/convict WAO to serve ten (10) years imprisonment. Upon release, she will serve probation for 3 years.
10. The above sentence shall take into account the number of days the accused has spent in remand custody, less those days that she was on bond pending trial.
11. Right of appeal 14 days explained.
12. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT SIAYA IN OPEN COURT, THIS 20TH DAY OF APRIL 2022**

**R.E. ABURILI**

**JUDGE**

