



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MERU
CRIMINAL CASE NO 39 OF 2015
REPUBLIC.....PROSECUTOR
VERSUS
ABEL KIRIMI.....ACCUSED

SENTENCE

1. Following the adoption by the court of a plea agreement dated 1/12/2021 and filed in court on 7/12/2021, the accused was charged with the lesser offence of Manslaughter to which he pleaded guilty and a conviction was entered against him for that offence.
2. Pursuant to that plea of guilt having been entered, the court directed that a victim impact statement report be filed by the probation officer to inform mitigation and sentencing.
3. That report, filed by the probation officer on 9/2/2022, reveals that the accused family as well as that of the victim are opposed to his possible release on a non-custodial sentence, as the accused had previously threatened to kill his father and even badly wounded him using stones. The victim's wife, who has since remarried the accused brother still live in fear and trauma and see no guarantee of safety if the accused is released on noncustodial sentence. The accused's entire family and that of the victim are apprehensive that if the accused is released, he may do more harm. Those threats to kill and the genuine fear of doing more harm to any of the family members cannot be wished away. I have duly taken into account the mitigation offered by Mr. Kithinji, for the accused as well as the submissions offered by Mr. Maina for the prosecution.
4. Drawing guidance from the objectives of sentencing in Criminal justice system, and being cognizant of the gravity of the offence for which the accused has been convicted, I find that the circumstances of the case, that of the victim's and accused family concerns militates against a non-custodial sentence.
5. The accused is said to have fatally attacked his brother, the deceased herein, with a panga due to a disagreement in relation to miraa. The deceased wife was forced to remarry a brother to the deceased, in order to help her raise the 2 minor twins. That places the victims in close proximity with the accused in the event of a non-custodial sentence being given and it thus portends a real risk for another offence by the accused. Nothing has been availed to court to show that the accused has been reformed and has thus left his violent past.
6. Having given regard to all the above factors, I determine to give the accused a deterrent custodial sentence of 30 years' imprisonment, which shall be calculated from the day he was arrested.
7. It is so ordered

DATED, SIGNED AND DELIVERED AT MERU THIS 1ST DAY OF APRIL 2022

PATRICK J.O OTIENO

JUDGE

1/4/2022

Mr. Maina for the prosecution.

Mr. Kithinji for the accused.

PATRICK J.O OTIENO

JUDGE