



State v Okinja (Criminal Case E022 of 2021) [2022] KEHC 12321 (KLR) (27 June 2022) (Ruling)

Neutral citation: [2022] KEHC 12321 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E022 OF 2021
RE ABURILI, J
JUNE 27, 2022**

BETWEEN

STATE PROSECUTION

AND

STEPHEN ONYANGO OKINJA ACCUSED

RULING

1. The accused person Stephen Onyango Okinja was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#). He denied committing the offence.
2. After a full trial, this court did on June 22, 2022 deliver judgment where it found the accused herein Guilty of the offence of murder as charged and convicted him accordingly.
3. His counsel Mr Mirembe asked for time to mitigate. In his mitigations this morning, the accused through Ms Nalunja advocate on behalf of Mr Mirembe submitted that the accused is a young man, married with 2 children aged 2 and 5 years old respectively. That he is remorseful and is sorry for the untimely death of the deceased. He regrets the offence and apologizes to this court and the family of the deceased. He prays for a term sentence.
4. The accused in his own words reiterates the words of his counsel in submissions pleading for leniency. He is a first offender as no previous criminal records are filed.
5. I have considered the mitigations by the accused and his counsel. I have also considered the circumstances under which the offence was committed, with the deceased suffering very severe injuries on the neck comprising a left linear cut on the neck about 10 cm severing the left jugular vein.
6. The accused denied committing the offence throughout his trial. The accused used a very sharp panga to eliminate a person who was not armed and never posed any threat to the person of the accused.



7. The Pre-bail report dated August 19, 2021 shows that the accused was aged 28 years old. The victim of the heinous murder was said to be aged 20 years old. He was a young adult. He was a cousin to the accused. His family have suffered emotionally and psychologically as a result of his untimely death.
8. From the Pre-Bail Assessment report, the accused was not married.
9. Punishment for murder is death, as stipulated in section 204 of the Penal Code. The accused slaughtered his cousin for no apparent reason as there is no material to show that the deceased stole or attacked the accused while at the latter's employer's home. Only the accused knows why he decided to eliminate the deceased using such force and a lethal weapon. Live and let live.
10. Albeit death sentence is not mandatory as was stated by the Supreme Court case of Francis Karioko Muruatetu & Another vs Republic [2017], I find that a long custodial sentence is appropriate, to meet the ends of justice, although no justice can ever be served sufficiently to repay the victim's family for the loss of their loved son who was just a young adult.
11. A deterrent sentence is however appropriate in the circumstances, despite the mitigations which are laced with half-truths as the accused claims to be married with 3 children, contrary to the Social Inquiry Report received in this court during the trial.
12. For all the above reasons and taking into account the Judiciary Sentencing Policy Guidelines and the objects of punishment and sentencing, I hereby exercise discretion and sentence the accused person Stephen Onyango Okinja to serve fifty (50) years imprisonment to be calculated from the date of his arrest on July 28, 2021. Right of Appeal to the Court of Appeal is 14 days from today explained to the accused person in the presence of his counsel.
13. I so order.
14. File closed.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 27TH DAY OF JUNE, 2022

R E ABURILI

JUDGE

