



Republic v Mokuu (Criminal Case 32 of 2016) [2022] KEHC 12221 (KLR) (29 July 2022) (Ruling)

Neutral citation: [2022] KEHC 12221 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
CRIMINAL CASE 32 OF 2016**

REA OUGO, J

JULY 29, 2022

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPH TABULANDI MOKUA ACCUSED

RULING

1. Joseph Tabulandi Mokuu was charged with the murder of his brother. On June 9, 2022 I found the accused person guilty of the said murder but was he was insane at the time he committed the offence he was charged.
2. Before sentence this court sought a presentence report which was tendered in court on July 4, 2022. The report indicates that the accused is 35 years and that he suffers from epilepsy. That he has married twice but his wives left him. That when he was being interviewed he seemed remorseful as he was saying that the wives were leaving him because of interference from his siblings who do not want him to have a family. That the social inquiry report revealed that his father chased his first wife on grounds that she was a thief. The father again chased the accused's wife alleging she was disrespectful. That the accused sought to be given land somewhere else, a request that was not welcomed by the father and the younger brother. Having considered the views of the accused's family it was the probation officer's recommendation that the accused would rather to be in custody to save life.
3. I sought to have an assessment of the accused's mental status assessed before sentence. Psychiatrist Rodgers Omuya after examining the accused concluded that Joseph was mentally unstable and that he has a psychotic disorder. The recommendation was that treatment be started and a follow up at KTRH psychiatry clinic.
4. Mr Bigogo the accused's counsel offered a passionate mitigation. He asked the court to commit the accused to a mental hospital and that the accused's family members are hesitant to have him at home



and that the accused cannot be released to the community and that he had taken the father of the accused who is hesitant to have him back.

5. In sentencing the accused, I have taken into account the provisions of section 166 of the CPC, the circumstances that lead to murder, that he is a first offender, the period he was been in custody and his counsel's mitigation. The latest mental report on the accused indicates that accused has psychotic disorder and that he needs treatment. I therefore order that Joseph Tabulandi Mokuu shall get the necessary treatment, I commit him to Mathari Mental Hospital for a period of ten (10) years subject to review by the court in accordance with section 166 of the Criminal Procedure Code after every two (2) years.

DATED, SIGNED AND DELIVERED AT KISII THIS 29TH DAY OF JULY 2022.

R E OUGO

JUDGE

In the presence of:

Accused Joseph Tabulandi -Present

Mr Bigogo For the accused person

Mr Mulati For the state

Aphline C/A

