



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO 23 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

MATHEW LANGAT.....ACCUSED

RULING ON SENTENCE

1. The Accused Mathew Langat was charged with the offence of murder Contrary to Section 203 as read with Section 204 of the Penal Code. He pleaded not guilty to the charge and was tried before Muya J who heard both the prosecution and defence case.

2. Ongeri J took over the case at judgment stage. In her Judgment dated 30/6/2020, Ongeri J found that the prosecution had proved both the actus reus and the mensrea. That the Accused had inflicted fatal injuries on the deceased and had acted with malice aforethought. The learned Judge dismissed the alibi raised by the Accused and convicted him as charged.

3. I took over the case at the sentencing stage. At the sentencing hearing on 28th October 2020, Mr. Koske learned defence counsel offered mitigation on behalf of the Accused. Counsel submitted that the Accused was 30 years old and was married with one child aged 1½ years. That he had been in custody for 3 years during which time he had reflected on his life and admitted that what he did was wrong. Counsel further submitted that he Accused was remorseful and prayed for leniency of the court.

4. The Accused added that his family was poor and depended on him. He said that he committed the offence because of alcohol and prayed for leniency. On his part, Mr. Mureithi for the state submitted that the Accused had no previous criminal records and may be treated as a first offender.

5. Prior to sentencing I directed that a pre-sentence probation report be filed. The said report together with a victim impact statement was filed on 9th November 2020.

6. I have considered the mitigation as summarized above. I have also given due consideration to the pre-sentence probation officer's report referred to above.

7. The purposes of sentencing as summarized in the Judiciary Sentencing Policy Guidelines at paragraph 4.1 are:-

(i) Retribution: to punish the offender for his/her criminal conduct in a just manner.

(ii) Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.

(iii) Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law abiding person.

(iv) Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.

(v) Community protection: to protect the community by incapacitating the offender.

(vi) Denunciation: to communicate the community's condemnation of the criminal conduct.

These purposes are not exclusive in themselves and their application is dependent on the unique circumstances of each case.

8. In this case the probation report has indicated that the Accused was a "Stubborn and impulsive person who easily lost his cool at the

slightest provocation.” That he was feared by those around him as he was a violent and rowdy person who also abused illicit alcohol.

9. The court made a finding at paragraph 15 of its Judgment thus:-

“I find that there is evidence that the Accused person and the deceased had a quarrel at the home of PW1. The Accused person followed the deceased and cut him in full view of PW2 and PW3.”

10. The finding above demonstrates that the Accused was a person given to extreme anger and is consistent with the description given of him in the probation officer’s report. Following this, and in view of the circumstances of this case, it is my view that the Accused shall benefit from a rehabilitative sentence. It is also my view that the community should be protected from his violent conduct. In addition, I have considered the victim impact statement and observed that the deceased’s family has been robbed of their sole bread winner. Further, the victims are said to be aggrieved because the Accused’s family has not made any attempts to commence traditional reconciliation and cleansing which they value.

11. I have also taken into account the fact that the Accused has spent three years in pre-trial custody and the fact that he was a first offender and has expressed remorse.

12. Having taken all the above factors into consideration, I sentence the Accused to 18 years’ imprisonment.

13. The Accused has 14 days’ right of appeal against both conviction and sentence.

14. Orders accordingly.

Sentence delivered, dated and signed at Bomet on this 27th day of January, 2021.

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R. LAGAT KORIR

JUDGE

Sentence delivered in the presence of the Accused, Defence Counsel Mr. Koskei, Mr. Mureithi for the DPP, and Kiprotich (Court Assistant).