



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO.18 OF 2019 (MURDER)**

**REPUBLIC.....STATE**

**VERSUS**

**1. ENOCK MATARA OMWOYO**

**2. BENSON NYAKAWA ONYANCHA.....ACCUSED**

**RULING**

**SENTENCING**

1. **Enock Matara Omwoyo** and the 1<sup>st</sup> accused person and **Benson Nyakawa Onyancha** the 2<sup>nd</sup> accused person were charged with the offence murder. They have been each convicted of the said offence. The offence of murder carries death sentence, as the maximum penalty.

2. I have read the probation reports and considered the period spent in remand together with the guidelines on sentencing policy. The first accused person (Enock Matara Omwoyo) is 36 years old is married and has 2 children. His family is willing to have him back. The deceased widow has no interest on the matter due to the life she had with the deceased. His children could not be reached. Enock is a first offender, I have noted his good record and that the presentence report is favourable, together with the mitigation however the deceased met his death in a very cruel manner.

3. I therefore sentence the 1<sup>st</sup> accused Enock Matara Omwoyo to 25 years imprisonment.

4. The 2<sup>nd</sup> accused Benson Nyakagwa Onyancha too was found guilty of the offence of murder. He is said to be a 1<sup>st</sup> offender. He has a spouse and 2 children. The presentence report is favourable. As per the said report and mitigation he is remorseful and has changed his behavior after being a nuisance dropping from school in form 1.

5. As already stated the deceased met his death in a cruel manner. He did not deserve to die in such a manner even if he was a suspect. **Benson Nyakagwa Onyancha** is sentenced to 25 years imprisonment. Each accused person has a rightful appeal within 14 days.

**Dated, signed and delivered at KISII this 23<sup>rd</sup> day of February, 2021.**

**R.E. OUGO**

**JUDGE**

**In the presence of;**

Enock Matara Omwoyo      1<sup>st</sup> Accused

Benson Nyakawa onyancha      2<sup>nd</sup> Accused

Mr. Otieno      Senior Prosecution Counsel Office of the DPP

Ms Rael      Court Assistant