



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT GARISSA
CRIMINAL CASE NO. 11 OF 2015
REPUBLIC.....PROSECUTION
VERSUS
JOSEPH GIKUNDI MUGAMBI.....ACCUSED

SENTENCING ORDER

1. The accused has been convicted with offence of murder contrary to **section 203** as read with **section 204 of the Penal Code Cap 63 Laws of Kenya.**

2. He mitigated before my Sister Judge Ali-Aroni. This was after State presented no previous records on 19/11/2020. Via his advocate the accused urges court to take into account that he is remorseful and regret death of deceased due to matrimonial issues. Accused has been in custody since May 2015.

3. However, the accused inflicted fatal cut to the deceased while the accused was totally unprovoked nor justified.

4. He never alluded to the incident in his defence but denied the killing of the deceased person. The act of killing as emerges from the evidence was brutal and the court has to deter same by a stiff sentence.

5. The 2016 **Judiciary of Kenya Sentencing Policy Guidelines** lists the objectives of sentencing at page 15, paragraph 4.1 as follows:

“Sentences are imposed to meet the following objectives:

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 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. Criminal conduct ordinarily occasions victims’, communities’ and offenders’ needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender’s contribution towards meeting the victims’ needs.

V. Community protection: To protect the community by incapacitating the offender.

VI. Denunciation: To communicate the community’s condemnation of the criminal conduct.”

6. In the case of **Nicholas Mukila Ndeti v Republic [2019] eKLR** the held that, **“the sentencing policy states at paragraph 4.2 that when carrying out sentencing all these objectives are geared to in totality, though in some instances some of the sentences may be in conflict.”**

7. The court has considered the evidence on record However the court finds that death sentence is no longer mandatory and in the instant case court finds that a sentence of 40 years’ imprisonment is appropriate with effect from 15/5/2015.

8. Right of appeal explained.

DELIVERED AND SIGNED AT GARISSA THIS 24TH DAY OF MARCH, 2021.

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C. KARIUKI

JUDGE