

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 7 OF 2019[MURDER]

STATE.....PROSECUTOR

VERSUS

SAMWEL OJWANG ONYANGO.....ACCUSED

RULING ON SENTENCE

1. The accused person herein Samuel Ojwang Onyango was by judgment delivered this morning convicted of the offence of murder contrary to section 203 of the Penal Code and he was given the opportunity to mitigate. His counsel Mr. Ooro holding brief for Ms Akinyi advocate mitigated on his behalf and he was also given a chance to mitigate in his own words.

2. I have considered the mitigation by the accused person and the fact that he is a first offender. He is 58 years old and a father of two children. He pleaded not guilty and maintains that nobody saw him kill the deceased. He prays for lenient sentence of one year imprisonment. I have also considered his age and the fact that he butchered the deceased for no apparent reason.

3. Punishment for murder is death. However, this is not mandatory anymore as espoused in the Francis Muruatetu and Another v Republic [2017]e KLR Case. Considering the circumstances under which the accused killed the deceased and his conduct and demeanor in court, although he is a first offender, he does not deserve short term sentence.

4. I hereby sentence the accused person Samwel Ojwang Onyango to serve forty (40) years imprisonment.

5. Right of appeal is fourteen (14) days of today.

6. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 26TH DAY OF APRIL, 2021

R.E. ABURILI

JUDGE

In the presence of:

Mr. Kakoi Prosecution Counsel

Mr. Ooro Advocate h/b for Ms Akinyi

The Convict

CA: Modestar and Mboya