



**REPUBLIC OF KENYA**

**HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL DIVISION AT MILIMANI, NAIROBI**

**HIGH COURT CRIMINAL CASE 14 OF 2018**

**REPUBLIC.....DPP**

**VERSUS**

**MOSES OKWEMBA JACKSON.....ACCUSED**

**RULING ON SENTENCE**

1. The accused was initially charged with the offence of; murder contrary to section 203 as read with section 204 of the Penal Code (cap 63) Laws of Kenya. The particulars of the information are that, on the 6<sup>th</sup> day of January, 2018, at Dandora Phase 11, within Nairobi County, he murdered IMK.
2. The information was read to the accused but he did not plead as the initial mental assessment report indicated that, he was not fit to plead. However, after being subjected to a further mental assessment, he was found fit to plead and the information read to him.
3. Subsequently, the accused gave the Republic an offer for plea bargaining. The parties subsequently, engaged in negotiation which ended up in the execution of plea bargaining agreement by the parties on; 4<sup>th</sup> and 16<sup>th</sup> March, 2021. The charges were consequently substituted from; murder to manslaughter contrary to section; 202 as read with section; 205 of the Penal Code.
4. Following a plea of guilty entered on the manslaughter charge, the facts were read to the accused who confirmed that, they were correct and he was convicted on his own plea of guilty.
5. In sentencing the accused, I have taken into account as aforesaid, the charge was reduced from murder to manslaughter and the circumstances under which the offence was committed. The accused's records and mitigation as stated to court is considered.
6. In addition, the pre-sentence report is considered, I have gathered therefrom that, the accused has no known family ties. He was brought up with little or no parental care. He doesn't know his own mother. The only companion he had socially are the work mates at Muthurwa market with whom he seems to have been abusing drugs as he smoked bhang. His alleged family of a wife and two children could not be reached for interview.
7. Similarly, the report shows that, the victim left a child who yearns for the mother's love and the entire family prays for a sentence that will be commensurate with the loss of the victim. In the same vein, the views of the Community are that, the accused is a "dangerous man" and suspected to live a life of crime. Hence the call of a custodial sentence to protect the community and give the accused an opportunity to get institutional rehabilitation.
8. The pre-sentence report indicates that, the accused is at a high risk of re offending, as he lacks the necessary family social support for non-custodial sentence supervision.
9. It is clear that, the accused is not suitable for a non-custodial sentence. Be that as it were, the court takes into account the gruesome manner in which the victim met her death. The post mortem report shows that, she died "due to neck compression due to manual strangulation with chest compression with queried possibility of sexual assault". There was indication of fluid flowing from her private parts and bruises on the right anterior chest wall. That, there were multiple defensive bruises on both upper limbs and marks on the neck. From these injuries one can only imagine what the victim went through.
10. Having considered all the aforesaid and the period the accused has been in custody since 12<sup>th</sup> March, 2018, of about three (3) years and two (2) months, I sentence the accused to serve thirty (30) years imprisonment to run from date of arrest. Right of appeal is explained

It is so ordered.

**DATED AND DELIVERED VIRTUALLY AND SIGNED ON THIS 21<sup>ST</sup> DAY OF JUNE 2021**

**GRACE L NZIOKA**

**JUDGE**

In the presence of:

Ms Ajiambo for the accused

Ms Maina for the State

Accused present in remand

Edwin - Court Assistant