



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**MISC CRIMINAL APPLICATION NO. 18 OF 2019**

**SIMON GITONGA TIAMPATI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT.**

**RULING.**

1. The applicant had been charged and convicted for the murder of the late **KERONYA TANYASIS** sometimes on the **27<sup>th</sup> October 2004**. He was sentenced to suffer death which later I presumed was commuted to life imprisonment.
2. Taking advantage of the Supreme Court's decision in the now famous Muruatetu case, petition no. 15 of 2015 he has sought this courts intervention to mitigate again. In his application he said that he was remorseful and he has learned a lifelong lesson. He regrets the offence. He prays that he be allowed to integrate back to his family and society. He said that he has been in custody since the year 2004.
3. The learned state counsel did not essentially oppose the application and submitted that the mitigation can be taken into consideration.
4. The court has perused the application and the judgement of this court delivered on 2<sup>nd</sup> June 2006. It is evident that the circumstances leading to the offence bordered on provocation although the applicant need not have taken the illegal action he did.
5. The court also takes note of the fact that the applicant has been in custody since 2004 which is about 17 years. He must have learned a lifelong lesson.
6. Consequently, and taking cue from the principles as contained in the Muruatetu case and the many other authorities emanating therefrom this court **hereby sets aside the death sentence imposed against the applicant and substitutes it with a custodial sentence of 20 years from 2<sup>nd</sup> June 2006.**
7. Orders accordingly.

**DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 29<sup>TH</sup> DAY OF JULY 2021.**

**H K CHEMITEI.**

**JUDGE**