

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

MISC. CRIMINAL APPLICATION NO. 315 OF 2018

JOHN GAKIE MUIRURI.....APPLICANT

VERSUS

REPUBLIC.....PROSECUTOR

RULING

1. The applicant was convicted for the murder of his wife and he was sentence on 26th June 2003 at the pleasure of the president as he was found to have been insane.
2. Pursuant to the Supreme Court of Kenya decision in **Francis Muruatetu and others v. Rep (2017) eKLR** he filed this application seeking to mitigate afresh.
3. The applicant pleaded that at the time of the incident he was found to be of unsound mind but he has since been treated and healed. That he was remorseful and he has learned lifelong lessons and he regretted the offence. He has attached several testimonials of what he has been engaged in while in prison. He has for instance trained in metal works and he was now a certified welder.
4. The learned state counsel following the principles laid down in the above Muruatetu case did not oppose the application.
5. The court on its part called for a psychiatric report of the applicant before a decision could be made. The court as well ordered the prison authorities to avail the applicant's current status.
6. The prison report dated 8th July 2021 is favourable to the applicant. It indicated that he has spent twenty years in prison and he has kept a clean record. He has also achieved some training in spiritual matters and that they recommended him back to the society.
7. The report dated 7th July by Dr. Karanja S W a psychiatrist from Gilgil sub county hospital was equally favourable to the applicant. He found him to be stable after undergoing treatment from 2001 to 2003. He said that he no longer has psychopathology symptoms.
8. In view of the above reports and in view of the circumstances that led to the appellant commit the heinous offence, this court finds that the application is merited.
9. Consequently, the court holds that the **20 years'** period the applicant has served in custody is a commensurate punishment for the offence he committed. **He is hereby set free unless lawfully held.**

DATED SIGNED AND DELIVERED AT NAKURU VIA VIDEO LINK THIS 23RD DAY OF SEPTEMBER 2021.

H K CHEMITEI

JUDGE