



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KABARNET

CRIMINAL CASE NO 71 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

VIOLET CHELAGAT ACHIGA.....1ST ACCUSED

MILICENT KAGEA MWANGI.....2ND ACCUSED

(Formerly Nakuru High Court Criminal Case No. 13 of 2015, Republic versus Violet Chelagat Achiga & Millicent Kagea Mwangi)

JUDGEMENT ON SENTENCE

On 29th September 2021 I convicted the accused for the offence of manslaughter and adjourned the same for pre-sentencing hearing to 30/09/2021. During the pre-sentencing hearing, Counsel for the prosecution (Mr. Mong'are) informed the court that the accused are first offenders. Ms Cheruiyot, counsel for the accused presented the mitigation of both accused to the court.

Mitigation of 1st accused

In respect of the first accused counsel informed the court as follows. the 1st accused is 36 years old from soy in Uasin Gishu county. She is the 2nd last born in her family. Her parents are elderly and are dependent upon her. Additionally, her nieces and nephews were also dependent upon her for their school fees and upkeep. Furthermore, the accused is remorseful and prays for a lenient sentence. She is a 1st offender and has been in custody since 21/2/2015, which translates to 6¹/₂ years. She also prays for a non-custodial sentence and has since reformed.

Mitigation of the 2nd accused

As regards the 2nd accused counsel mitigated as follows. She is 36 years old. She is unmarried and has two children with the older child aged 17 years and the younger aged 7¹/₂ years old. Her children are dependent upon her. She is also the bread winner of family. Furthermore, counsel has informed the court that the accused has been in custody since 21/2/2015 which translates to a period of 6¹/₂ years. Counsel has also prayed for a lenient and non-custodial sentence. The foregoing are the mitigating circumstances.

The aggravating circumstances are as follows. A life of a young person has been lost. The deceased suffered pains in the hands of the accused following injuries sustained in his head and stomach. Both accused used excessive force in an attempt to recover the bill owed to the business of their employer.

Findings on sentence

After taking into account both the mitigating and aggravating factors including the period they have been in pre-trial custody of about 6¹/₂ years; I find that the appropriate sentence is one of four imprisonment which begins to run from the date of this judgement.

JUDGEMENT DATED, SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THROUGH VIDEO CONFERENCE THIS 19TH DAY OF OCTOBER 2021

J M BWONWONG'A

JUDGE

In the presence of:

1. Mr Kinyua and Kemboi, Court Assistants

2. Mr. Makori for the Republic

3. Mr. Chepkilot for the Accused.