

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

PETITION NO. 6 OF 2019

GAYO ARERO JILLO..... PETITIONER

VERSUS

REPUBLICRESPONDENT

RULING ON RE-SENTENSING

1. The petitioner, **Gayo Arero Jillo**, was convicted and sentenced to death for murder contrary to **section 203 as read with section 204 of the Penal Code**. It was alleged that on 1/12/2008 at Sessi sub-location in Moyale District within the then Eastern Province, the appellant murdered **Nuria Abdullahi Dima**.
2. Being aggrieved by that decision, the petitioner appealed to the Court of Appeal which appeal was dismissed on 25/7/2013.
3. Vide his Motion on Notice dated 4/1/2019, the petitioner petitioned this Court for the review of his sentence on the basis of the Supreme Court's decision in the case of **Francis Muruatetu and Others vs Republic [2017] eKLR**.
4. In that case, the Supreme Court of Kenya held that the mandatory nature of the death sentence was unconstitutional as it denied the Court its discretion in sentencing. The Court proceeded to set out the criteria or the principles that should guide a Court in sentencing. Some of the considerations are *age of the offender, being a first offender, whether the offender pleaded guilty, the character and record of the offender, commission of the offence in response to gender-based violence, remorsefulness of the offender, the possibility of reform and social re-adaptation of the offender and any other factor that the Court considers relevant*.
5. I have considered the foregoing and the circumstances under which the offence was committed. The petitioner set upon the deceased with a club which had a metal head breaking her collar bone, hit the deceased's head against the wall, tied a rope around her neck, hands and legs. Continued hitting and stepping on the deceased's stomach until she died. She died a slow and painful death at the hands of the petitioner.
6. The state urged that the death sentence be substituted with life imprisonment. In his mitigation, the petitioner stated that he is a 1st offender. He is rehabilitated, remorseful and has asked for forgiveness. He regrets his actions. He was 53 years when he was convicted and now he is 63 years.
7. Taking into consideration the facts of the case the manner in which offence was committed, Section 339 of the CPC, the mitigation as well as the age of the petitioner, I set aside the death sentence and substitute therefor with the sentence of imprisonment for 25 years. The sentence shall run from the date the petitioner was first sentenced, that is, 7/11/2011.

Signed at Meru

A. MABEYA

JUDGE

DATED and **DELIVERED** at Meru this 23rd day of January, 2020.

A. ONG'INJO

JUDGE