

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

PETITION NO. 149 OF 2018

ZIPPORAH KAYUYU.....PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING ON RE-SENTENSING

1. The petitioner, **Zipporah Kayuyu**, 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 7/9/2007 at Macibi Village, Kilechune, Nkomo Location in Meru North District within the then Eastern Province, the petitioner murdered **Cecilia Karimi**.
2. Being aggrieved by that decision, the petitioner appealed to the Court of Appeal which appeal was dismissed on 24/6/2016.
3. Vide her application lodged on 17/7/2018, the petitioner petitioned this Court to review her 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 panga cutting her all over from which injuries the deceased succumbed.
6. The state urged that the death sentence be substituted with a sentence of 20 years imprisonment. In her mitigation, the petitioner stated that she is rehabilitated, remorseful and has asked for forgiveness. She has been trained on skills which will help her.
7. Taking into consideration the facts of the case, the manner in which the petitioner committed the offence, the mitigation given and the provisions of Section 333 of the CPC; I set aside the death sentence and substitute therefor with the sentence of 20 years. The sentence shall run from the date the petitioner was first sentenced, that is, 12/5/2011.

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

A. MABEYA

JUDGE