



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CRIMINAL REVISION NO. 805 OF 2018**

**SCHOLASTICA WANJAGI MUREITHI.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

On 3.9.2020, the applicant SCHOLASTICA WANJAGI MUREITHI, filed this application seeking basically that she now be placed on a non-custodial sentence. The applicant had on 28.5.2015 been sentenced to serve 10 years imprisonment for the offence of manslaughter contrary to section 202 (1) of the Penal Code. In the affidavit in support of this application, the applicant has deposed that through the period she has been in prison, has undergone counselling and also attained various rehabilitative skills. She pleaded that she be placed on probationary terms.

The learned counsel for the state simply submitted that should the court be of the opinion that the applicant is entitled to remission, then the application of the applicant could have merit. She otherwise held that the sentencing court took into consideration the period that the applicant stayed remanded in custody awaiting the determination of her case.

I have considered the application of the applicant herein and the affidavit in support of the same, and also the short response of the learned counsel for the state. This is basically an application for revision of the sentence imposed on the applicant. It seeks that the said sentence of 10 years imprisonment be revised and substituted by a probationary term. In determining whether or not this application has merits, I have carefully considered the proceedings of the Hon. Justice S. N. Mutuku of 28.5.2015 in the trial case (HCCR. No. 30/2013). These were the sentencing proceedings. Apparently, the applicant had upon being convicted, had applied to be placed on a non-custodial sentence i.e probation. The court accordingly ordered for a probation officer's report which was only filed in court.

In the said sentencing proceedings, the court noted that the entire mitigation of the applicant had turned out to be false. That the said probation officer's report had further indicated that the applicant had not shown any remorse from the incident and was therefore not suitable to be placed on probation. It was the opinion of the court that she would benefit more through a custodial sentence. In the opinion of the court, the term of 10 years imprisonment would be sufficient in her rehabilitation. In arriving at this, the court duly considered the period she had spent in custody of 2 years and 3 months.

This court is not convinced that there has been any material change in the circumstances of the situation of the applicant that would warrant the revision sought by the applicant of the sentence imposed on her about 5 years ago. This application filed herein on 3.9.2018 therefore lacks merit. I dismiss the same and order that the applicant do serve her sentence as ordered by the court on 28.5.2015. Orders accordingly.

**D. O. OGEMBO**

**JUDGE**

**19.6.2020**

Court:

Ruling read out in open court (skype) in presence of the applicant and Ms. Ndombi for the state. Also Mr. Mathenge for the applicant

**D. O. OGEMBO**

**JUDGE**

**19.6.2020**