

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

PETITION NO. 127 and 130 OF 2018

JONAH MUTHEE..... 1ST PETITIONER

SHADRACK MUTIRA..... 2ND PETITIONER

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Petitioners, **Jonah Muthee (Petition No. 127 of 2018)** and **Shadrack Mutira (Petition No. 130 of 2018)** were jointly charged before the High Court at Meru with the offence of murder contrary to *section 203 as read with section 204 of the Penal Code*.
2. Particulars of the charge were that on the 19/3/2004 at Nchiru Market in Nkomo Location of Meru North district within the Eastern province they jointly murdered **Jason Thurania**
3. Vide their respective Petitions filed on 14/6/2018, the petitioners petitioned this Court to review their sentences on the basis of the Supreme Court 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 Trial 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 read through the judgment delivered on 18th January 2018m by Justice Ruth N. Sitati and inconsideration of the mitigating factors raised by the Petitioners and the recommendations by the Prisons Authority and the fact that the Petitioners have been in custody for over 14 years and being guided by Supreme Court Petition No. 15 and 16 of 2015, the sentence meted out against the petitioners is hereby set aside and lieu thereof they are sentenced to serve 12 years from the date of this ruling.

HON.ANNE ADWERA ONG'INJO

JUDGE

RULING DATED AND DELIVERED AT MERU ON THIS 24TH DAY OF SEPTEMBER 2020.

HON.ANNE ADWERA ONG'INJO

JUDGE