



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

PETITION CASE NO.39 OF 2019

JACOB LANGAT NGETICH.....PETITIONER

- V E R S U S -

REPUBLICRESPONDENT

RULING ON PRESENTENCE

1. The Petitioner was sentenced to suffer death for the offence of Murder Contrary to Section 204 of the Penal Code.
2. The particulars of the charge were that on 8th April, 2008, at **KAPSIMOTWO** Village, Bomet District of Rift Valley Province, the petitioner Murdered **LEONARD KIPNGENO LANGAT**.
3. The Prosecution evidence in brief was that the Petitioner stabbed the deceased with a Knife in the presence of PW.5, PW.2 and PW.3.
4. PW.6 saw the Petitioner enter a hotel at Kapsimotwo and took a knife which he used to stab the deceased.
5. The witnesses said the deceased and the Petitioner had a fight prior to the stabbing. After the stabbing the deceased ran in shock for 10 meters picked a stone but he collapsed.
6. PW.4, the Uncle to the deceased heard screams from the shopping centre and he was told the deceased had been stabbed. He went to take the deceased to Hospital but the deceased died on the way to Hospital.
7. The Doctor who produced the Post Mortem Report testified as PW.7. He said the Post Mortem was done by Dr. S. K. Cheruiyot who formed the opinion the cause of death was Cardiopulmonary Arrest due to massive high haemothorax and a tear of the middle long lobe with lung collapse and torn right parenchymal blood vessel resulting from penetrating stab chest wound from a sharp object.
8. The Petitioner who denied the offence said he was at a Garage in Bomet when he learnt that his brother had stabbed someone and all their houses had been burnt down. He said he would not cover his brother's wrong doing.
9. The Petitioner called two witnesses, **DW.2 VICTORY CHEPKURUI CHERUIYOT** a sister of the Petitioner who said on 23/3/2008, people went to their home and burnt down their family houses alleging the Petitioner had killed someone.
10. **DW.3 ELIZABETH BETT** said she saw the knife the Petitioner was alleged to have used. She said **JOSEPH NGENY** took the knife.
11. The Petitioner was convicted and sentenced to death. He appealed to the Court of Appeal and the Appeal was dismissed on 26/3/2015.
12. The Petitioner has now petitioned this Court for sentence rehearing following the decision in the Francis Kariokor Muruatetu decision that the death penalty is unlawful.
13. The Petitioner filed written submissions in this Petition through his Advocate in which he said the death penalty was inhuman treatment and degrading punishment.
14. It was further submitted that the Petitioner was arrested on 8/4/2008 and remained in custody until 30/7/2010 when he was sentenced to death.
15. Further that during the period he was incarcerated, he has learnt skills in prison and has become a religious person and he is seeking a chance to positively contribute to society and to preach the Gospel.

16. The Probation Officer filed a Pre-sentence Report in which he said that the Petitioner is remorseful and prays for leniency and promises never to repeat and further that the family of the deceased and that of the Petitioner have reconciled and cleansing rituals have been done.

17. I have considered the circumstances of this case and I find that the death penalty was merited taking into account the crime committed by the Petitioner. The Petitioner blamed his brother for the offence and it is clear he is still in denial.

18. The decision in the Francis Muruatetu Kariokor said the penalty is appropriate in deserving cases.

19. The sentence meted upon the Petitioner is commuted to life imprisonment if this has not yet been done.

20. The Petitioner will accordingly serve life imprisonment for the offence he committed.

Delivered, signed and dated at Kericho this 19th day of November, 2020.

A. N. ONGERI

JUDGE