



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. 9 OF 2019 [MURDER]

CORAM: HON. R.E. ABURILI J

REPUBLIC.....ROSECUTOR

VERSUS

PATRICK OWINO OTIENO.....ACCUSED

RULING ON SENTENCE

1. On 24th November, 2002 this court found the accused person herein guilty of the offence of murder as charged under section 203 of the Penal Code and convicted him accordingly. The court then ordered for a presentence report and victim impact statements to be filed by the probation officer. I have now considered the mitigation by the accused person through his counsel Mr. Ochieng Ochieng. The court has also considered the Pre-sentence Report filed by the Probation Officer on 14/12/2020 and the Victim Impact Statement from the family of the deceased.

2. No doubt, the accused person breached the trust of friendship that he earned from the deceased and lured his friend to the slaughter house. He went for the deceased from the latter's house at night and in the glare of the deceased's mistress. The deceased was found butchered to death yet the accused pretended not to have met or lured the deceased from his house on the material night.

3. To date, the reason why the accused lured the deceased to death has not been known. Only the accused and the deceased know yet the dead tell no tales.

4. The accused says that he is remorseful and is a family man who has dependants. However, the deceased too was a family man with dependants who are left in anguish because they will never know why the accused lured their loved one to the cruel death. Live and let others live.

5. Sentence for murder upon conviction as stipulated in Section 204 of the Penal Code is death. However, taking into account the mitigation and Presentence report and the Victim Impact Statements, as well as the principles espoused in the **Francis Muruatetu & Another v Republic [2017]e KLR**, I hereby exercise discretion and sentence the accused person **Patrick Owino Otieno** to serve **thirty (30) years** imprisonment to be calculated from date he was placed into custody.

6. Right of Appeal explained.

7. Orders accordingly.

8. Filed closed.

Dated, signed and Delivered at Siaya this 16th Day of December 2020

R.E. ABURILI

JUDGE

In the presence of:

Mr. Kubebea, Prosecution Counsel for the State

Mr. Ochieng Ochieng Advocate for the Accused

Accused present in court on bond

Court Assistants: Modestar