

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

HIGH COURT CRIMINAL CASE NO. 93 OF 2014

LESIT J

REPUBLIC.....PROSECUTION

VERSUS

MAUREEN WANJIRU GAKURO.....ACCUSED

RULING ON SENTENCE

1. The accused **MAUREEN WANJIRU GAKURO** was initially charged with murder contrary to **section 203** of the **Penal Code**. After hearing the case, the court reduced the charge facing the accused to manslaughter contrary to **section 202** of the **Penal Code** given the facts and the circumstances of the case.

2. The prosecution led by Mr. Otieno treated the accused as a first offender.

3. In mitigation, Ms. Gesare Learned Defence Counsel urged the court to consider that the accused is a mother of two children, one of them being taken care of by her diabetic mother. Counsel urged that her brother who lives with her mother was unwell. She urged court to give the accused a lighter sentence.

3A. I appreciate the **Francis Kariko Muruatetu and Another versus Republic and Others [2017] eKLR, Petition No. 15 and 16 of 2016 [consolidated]**. It is a guiding judgment from the Supreme Court. It guides that the accused mitigation must both be received and considered in order to understand what may have caused the accused to take the action he/she did. The justices of the Supreme Court stated that from accused mitigation one may understand the pathos.

4. I have considered the mitigation by the defence. I have also considered the unique circumstances of this case. There was provocation made worse by the accused medical condition which causes her to become irritable, to act irrationally with a compromised quality of the decision she makes in life.

5. The accused was frustrated but, as I observed, she was aware of what she was doing only that the choices she made were capable of being impaired due to her condition.

6. I considered that accused was released on bail on 18th February, 2015 and remained on bond until 18th January, 2018 when she was arrested for another offence. In total she was in custody pending trial for one year and four months.

7. Having taken all these factors into consideration I sentence the accused to an imprisonment term of three years.

8. She should receive Guidance, Counselling and Anger Management while serving prison organized by the prison authorities.

9. She has a right of appeal against conviction and sentence within 14 days.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF FEBRUARY, 2019.

LESIT J

JUDGE