

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MIGORI

CRIMINAL CASE NO. 4 OF 2018

REPUBLIC.....PROSECUTOR

-VERSUS-

FAITH AUMA ARWINGS.....ACCUSED

SENTENCE

1. The Accused person herein, **Faith Auma Argwings**, was convicted of the offence of murder on 30/04/2019. On 21/05/2019 parties tendered submissions and mitigations where the Defence Counsel urged this Court to exercise leniency in view of the contents of the Pre-Sentence Report and that the Accused person has been of good character all along and as such fit for a non-custodial sentence.
2. The prosecution took issue with the Pre-Sentence report on the ground that the reason for proposing the non-custodial sentence was that the accused person had young children whereas even the deceased left behind young children who are now without their mother. Counsel prayed for a very severe sentence more so that the accused person is liable to suffer death.
3. I have considered this matter with a keen eye. The circumstances under which the accused person committed the offence were well captured in the judgment. As stated therein the accused person acted in such a beastly manner and that ought to be appropriately taken into account. I have also taken into account the accused person's young family which includes the young one who was born in prison and has not known freedom to date. I have equally considered the fact that the deceased left behind young children.
4. The accused person indeed terminated two lives; that of the deceased and the then unborn. Although the accused person was not charged with the death of the unborn child, this Court is duty called to take such circumstances into account in sentencing.
5. By striking a balance between the interests of the accused person and those of the family of the deceased and having considered the Pre-Sentence Report I find that this is a case which involves aggravating circumstances and calls for severe sentence.
6. I would have readily handed down life sentence to the accused person, but for the sake of the young baby who is before Court and who has not known life outside of prison since birth, I will exercise restraint and leniency and sentence the accused person to 20 years' imprisonment.

It is so ordered.

DELIVERED, DATED and SIGNED at MIGORI this 29th day of May 2019

A. C. MRIMA

JUDGE

Sentence delivered in open Court and in the presence of:

Miss Apondi Counsel for the Appellant.

Mr. Kimanthi, Senior Principal Prosecution Counsel instructed by the Office of the Director of Public Prosecutions for the State.

Evelyne Nyauke – Court Assistant