REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAJIADO

CRIMINAL CASE NO. 17 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

SAMUEL MUNGAI CHEGE.....ACCUSED

CORAM: Justice R. Nyakundi

Meroka for state

Mr. Waiganjo for the accused

Accused present

JUDGEMENT

Samuel Mungai Chege, the accused faces a charge of murder contrary to Section 203 of the Penal Code as punishable under Section 204 of the stated Code. The brief facts of the case as per the information can be summarized as follows:

The accused person lived in Kibogeni area in Ilbissil Township at Kajiado Count. On the 10th January, 2017 the deceased Zacchaeus Sereya Lemita happened to be within the neighbourhood of the accused home. The evidence tendered in the trial was that the accused suspected them to be thieves set to commit a felony. In response he armed himself with a panga which he used to act in self-defence and in the process inflicted fatal harm to the deceased. The accused pleaded not guilty to the charge. He was represented by learned counsel Mr. Waiganjo while the State case was prosecuted by Mr. Meroka, the Principal Prosecution Counsel.

The State called six (6) witnesses to discharge the burden of proof beyond reasonable doubt as stated under Section 107(1) of the Evidence Act. In setting the base line of a case against the accused the State summoned Elizabeth Baithya as PW1. She testified that prior to this incident she was well known to the accused. Her evidence was that she had a close relationship with the accused person and stayed in the same area where the offence was committed. She alluded to the events of 10th January, 2017 where she identifies an incident of two neighbours who had started fighting between themselves. She further told the court that at the same time there were thieves who came to the house of the accused. According to her testimony this caused the accused to get out armed with a panga which he used to attack one of them resulting in his death. After noticing a human being has been injured she left the scene to go and call for police assistance.

On cross-examination by counsel Waiganjo for the accused PW2 reiterated that before the attack the thieves had approached the door to accused's house. She referred to the presence of electricity lighting which illuminated to the direction where she stood to enable her visualize the events clearly.

The next witness (PW3) was Cpl. Benjamin Samoei, a police officer attached to Kajiado Criminal Investigations Agency. It was his evidence that on 10th January, 2017 together with the O.C.S. they left for the scene located at Illibissi area – Kibogeni to attend to a reported murder incident. On arrival PW3 discovered a deceased person with cut wounds at the neck. They checked the body as first responders to the scene but it had no life. He also stated that the body was removed from the scene and arrangement for the post-mortem arrangement at Kajiado District Hospital mortuary. It was also his evidence that the accused was later apprehended. He was subjected to mental fitness test and subsequently charged with murder of Zacheaus Sereya Lemita.

PW1 Dr. Richard Njoroge who is a forensic pathologist testified that on 12th January 2017 at Kajiado Hospital mortuary he performed an autopsy on the body of the deceased. With regard to the findings on examination Dr. Richard Njoroge confirmed that the deceased suffered serious injuries to the neck which rendered left carotid, internal and external jugular vein, left sternomastoid muscle incised and the C2 cervical vertebra. He further confirmed that the deceased died as a result of hemorrhagic shock due to incised sharp trauma to the neck.

PW4 CIP Abel Onyapidi attached to Scenes of Crime Department took the witness stand to testify on behalf of his colleague Nancy who was not easily procured to give evidence without undue delay being occasioned to the proceedings. In his testimony, the department had received two compact discs from P.C. Muli of Kajiado CID office which contained prints of photographs. According to the witness it required of them to process the prints into photographs used as evidence in respect of the murder charge against the accused person. He further told the court that the compact discs' prints were processed in their lab which shows documentation of various aspects of the scene and the body of the deceased. He also identified the photographs which were admitted in evidence as exhibit 3(a) and 3(c).

PW5 Richard Njenga testified as one of the persons PW2 narrated to court she learnt was fighting with another not before these proceedings. According to Richard Njenga he admitted that on 10th January, 2017 he fought with one by the name Peter over a woman. He further acknowledged that during the altercation the accused who was well known to him came along and managed to disengage them from further arguments and confrontation. He also maintained that in a short while they noticed a body of a human being lying down with severe injuries to the neck. It was further his evidence that when the accused came to separate them he was armed with a panga and a club but did not use any of it to cause injury against them.

PW6 P.C. Maurice Muli testified that on receipt of the murder report police commenced investigations. That on visiting the scene and recording statements from witnesses he came to a conclusion that the murder had been committed by the accused person. He therefore recommended that a charge of murder be preferred on the strength of the evidence that the accused killed the deceased on the night of 10th January, 2017.

When placed on his defence the accused admitted that on the night of 10th January, 2017 at about 7 p.m. he noticed PW5 and another person not before court were involved in a fight. In his testimony upon separating them he went back to Kachichini Bar to have a drink with one Patrick. Thereafter he also left for his house. Though initially he alleges to have seen two suspicious men hovering around the bar. The accused went further to state that he was not bothered until some stones were thrown at his house. It is the accused testimony that he went to confront the attackers when on contact realized there were people well known to him. That there was a confrontation between them where they demanded money from the accused or else they kill him. According to the accused he went back to the house having duped them, that he was going for the money they requested to save him from being killed. However, it did not take long before seeing PW2 being attacked by the same men. In the course of the struggle he alleges to have seen one of the attackers with multiple injuries. He denied that he participated in inflicting the injuries upon the deceased as alluded to by the prosecution.

The Law, Analysis and Determination

The issues before this court is whether the prosecution has discharged the burden of proof of beyond reasonable doubt in respect of the charge of murder against the accused person contrary to section 203 of the Penal code.

The principle was carefully considered in the cases of **Woolmington v DPP 1935 AC** and **Miller v Minister of Pensions1947 2 ALL ER 372 – 373** Lord Denning in determining the judgement of the court in Miller (supra) states in part on the standard of proof vested with the State;

> ***"That degree is well settled. It need not reach certainty, but it must carry a high degree of probability. Proof of beyond reasonable doubt does not mean beyond the shadow of doubt .....?"***

In order to succeed and obtain a conviction a criminal offence the prosecution must show in the words of the statute under Section 107(1) of the Evidence Act that the alleged verdict is against the weight of the evidence and other relevant material that the accused committed the offence as charged for any judgement of the court to be obtained in their favour.

The question which must be addressed hereafter is whether the four crucial elements of the offence of murder contrary to Section 203 of the Penal Code were proved beyond reasonable doubt.

(1) The fact of the death of the deceased

(2) That the death was unlawful

(3) That in causing death the accused committed it with malice aforethought

(4) That there is direct or circumstantial evidence placing the accused person at the scene of the crime

It is therefore pertinent to consider the ingredients of the offence and the evidence to establish whether the prosecution discharged the burden of proof beyond reasonable doubt.

a) The Death of the deceased

On this element the facts are very clear from the testimony of PW1 Dr. Njoroge who performed the postmortem on the body of the deceased which was positively identified by his family members Jonathan Oshur, Amos Nakeen and a police officer P.C. Samoei. PW4 IP. Abel Onyapidi from the Scenes of Crime Department also testified as to the set of photographs taken at the scene in Illbissil of the body of the deceased. The photographs were admitted in evidence as Exhibit 3. According to the accused on the night of 10th January, 2017 he saw a person lying on the ground dead with multiple injuries. In the case of **R v Cheya & another 1973 EA at pg 500** it was held interalia that proof of death in homicide cases is through medical evidence although any other circumstantial evidence is also admissible as to the cause and death of a person. With the evidence on record I find there is proof beyond reasonable doubt that Zacchaeus Lemita is dead.

b) The unlawful cause of death

The *actus reus* for the offence of murder are such unlawful acts carried over directly or indirectly that cause or hastens the death of the deceased. Section 213 of the Penal Code defines causing death to include acts which are not the immediate or sole cause of death in which the accused may be held responsible for the death of another person. ***[See also text on Criminal Law by William Musyoka 2nd Edition Law Africa 2016 at (page 304)].*** For a case founded on this criminal evidence by the prosecution must show that the accused person executed an unlawful act intended to cause death or grievous harm. It does not matter whether assault was a single act or multiple infliction of bodily harm so long as the death is traceable to the act carried out by the accused. Section 213 of the Penal Code will apply to the facts of the case depending on the circumstances as manifested by the evidence for the prosecution.

In the present case there is evidence of PW2 Elizabeth who was at the near point to the scene of the crime. On the fateful night she described the chronology of events how the deceased met a homicidal death. Suffice to say that according to PW2 on the night of 10th January, 2017 the accused person armed himself with a panga on a mission to confront the would be robbers to their house. It was further in her testimony that the accused stabbed one of the alleged robbers with the panga occasioning incidental fatal injuries. At that stage what PW2 did was to leave the scene of murder to seek police assistance. PW1 Dr. Njoroge testimony who carried out the postmortem exhibit 1 confirmed that the deceased sustained multiple injuries to the great verses of the neck. He formed the opinion that the cause of death was due to hemorrhagic shock due to incised sharp trauma to the neck. This evidence goes to demonstrate that the deceased did not die as a result of natural causes or accident. The right to life under Article 26 of the Constitution is jealously protected and can only be excused as authorized by the same Constitution or any other written law.

In the case of **Guzambizi s/o Wesonga v R 1948 15 EACA 65** echoes the principle that all homicide is presumed unlawful unless it is excusable. One such defence raised by the accused person is governed by Section 17 and Section 241of the Penal Code on the doctrine of self-defence. The defence of self should not be viewed in isolation but in the centre of well settled principles. The conventional formulation of the doctrine in defence of self or private property and use of force in Kenya can be traced to the English common Law Principles in the cases of: **Palmer v Republic 1971 AC 814, Beckford V Queen 1988 AC 130.** In these two cases the principles relevant to the scope of ones right to self-defence spells out that use of force must be both necessary and proportionate to the threat. This is in line with Article 26 of the constitution on the right to life which means every person has a primary duty to protect the lives of other citizens and persons within our borders. In upholding the constitution and the rule of law only lethal force is permissible where there is a clear legal basis for doing so.

In the case of **Uganda v Mbutuhi 1975 HCB 225** the court held that in accordance to the defence of self-certain requirement elements must be fulfilled that is:

> ***"(a) There must be an attack on the accused. Two: That the accused must as a result of the attack, have believed on reasonable grounds that he was in imminent danger of death or serious bodily harm. Three: That the accused must have believed it necessary to the use of force to repel the attack made upon him. Four: That the force used by the accused must be such force as the accused believed, on reasonable grounds to have been necessary to prevent or resist the attack. Justifiable homicide or use of deadly force therefore against another human being is limited to reasonable and necessary circumstances to protect life or property under imminent danger."***

That is why the law of self defence is a law of necessity so long as there is apparent danger to the person claiming it.

In **R v Joseph Chege Njora** the Court of Appeal held:

> ***"A killing of a person can only be justified and excusable where the accused's action which caused the death was in the course of averting afterwards attack and no greater force than is necessary is applied for that purpose. For the plea to succeed, it must be shown by the accused on a balance of probabilities that he was in immense danger or peril arising from a sudden and serious attack by his action."***

It must also be shown that reasonable force was used to avert or forestall the attack which the law emphasizes in this case is that the conduct of the accused person relying on self-defence must be blameless and devoid of any unlawful act or intention to commit the offence. From the above principles the reasonable use of force in defence of self or private property is not disputed, however it must be weighed alongside the right to life guaranteed to every person under Article 26 of the Constitution. By this provision property should not be prized above the right to life.

In the instant case it is crystal clear from the key prosecution witness (PW2) that the events of the fateful day did involve struggle and fight with the assailants. From her testimony there were two neighbours one of them identified as PW5 and another not before court involved none or brawl. Incidentally, none of them was a victim of the offence. The deceased and another man emerge at the scene in very different circumstances. As articulated by PW2 the accused armed himself with a panga cutting one of them which inflicted fatal injuries.

The one notable piece of evidence is that the alleged thieves seemed not to be armed with any dangerous weapon presumably PW2 testimony is not clear whether indeed there was a robbery within the homestead which necessitated the use of excessive force by the accused. Her emphasis is on the confrontation between the two men and the accused person. An important evidential material is the admission by PW2 that the accused went to the house to pick the panga which was used to cut the deceased at the neck. This brawl and stabbing of the deceased neck was ultimately the course of death. This attack to me was excessive use of force which was intended to cause serious injury to the body of the deceased. The incident of full force used was disproportionate to the alleged incidents of stealing being referred to by the accused because the nature and extent of the threat as correctly stated by PW2 was too remote to operationalize a retaliation from the accused.

The probability of the attack was out there and not as the accused narrative and to paint a picture of an imminent attack. The likely scale of the attack and injury, or loss expected from the deceased in this incident did not reach a sufficient level to justify the action by the accused.

In absence of cogent evidence that an attack will take place and the precise nature of its gravity there was no reasonable cause for the accused to use lethal force to cause the death of the deceased. That alone satisfies the criteria that the death of the deceased was unlawful**.**

(c) Malice aforethought.

In this case the accused person is alleged to have committed murder with malice aforethought. The mensrea for the offence of murder as deduced from the definition on malice aforethought under Section 206 of the Penal Code is an intention to cause death or an intention to cause grievous bodily harm. Further malice aforethought is proved not only when the accused purpose is to cause death or grievous bodily harm but when he carries out the killing with the knowledge that his acts or commission will cause death.

The formulation of malice aforethought as set forth in Section 206 of the Penal Code imports the element of recklessness, design and premeditation. This is where the accused foresees that a particular result would flow from his unlawful acts but proceeds to execute his intention. In **Ogeto v R 2004 2KLR 14** the Court of Appeal held *interalia* that:

> ***"malice aforethought in murder is proved where the accused chases the deceased and when he catches up with him stabs him with a knife on the chest from which wound he fatally dies. Section 206(a) of the penal Code on the intention to cause death or grievous harm is effectively proved."***

There are other numerous cases herein which demonstrate the elements of malice aforethought in the trial of an accused person. Among the relevant authorities applicable to the circumstances of this case are **R v Tubere s/o Ochen 1945 12 EACA 63**. The grounding elements being the nature of the weapons, the manner in which it was used, the relevant parts of the body targeted, the nature and gravity of the injuries inflicted and the conduct of the accused person concerning the manner of killing. The Court of Appeal in the cases of **Ernest Abanu Bwire Abangallas Onyango v R CR Appeal No. 32 of 1990, Godfrey Ngotho Mutiso v R 2008 EALR, Morris Aluoch v R CR Appeal No. 47 of 1996** and **R v Yakobo Ojamuko s/o Nambio 1944 1 EACA 97**. The above cases propound the underlying principles that if evidence shows repeated injuries inflicted upon the deceased then malice aforethought could well be manifested as outlined in Section 206 of the Penal Code.

The prosecution therefore has a duty to prove that the accused with malice aforethought caused the death of the deceased.

Reverting to the case before me the prosecution relied on the testimony of PW2 and the postmortem report to establish that the accused had malice aforethought. PW2 stated in court that before the murder accused person alleged that there were thieves aimed at robbing their house. However, in the same testimony PW2 makes no reference that indeed the house of the accused had been broken into and a robbery committed to warrant armed retaliation. The deceased was murdered after the accused went into the house armed himself with a panga which he targeted at the neck inflicting the fatal stabs. When P.C. Muli PW6 visited the scene there was no trace of evidence that the deceased was killed in the course of committing a felony as alleged by the accused. The surrounding circumstances of the case does not show that the scene of the murder was in the house of the accused person. When reading the testimony of PW2, this incident took place outside their house. As verified from PW2 the act of stealing by some people came from the accused when he entered the house to arm himself with the panga.

PW1 Dr. Noroge testified that when he was called in to conduct the postmortem on the body of the deceased at the mortuary he found there were cut wounds to the neck severing carotid and singular veins. In his opinion the deceased died of haemorrhagic shock due to incised sharp trauma to the neck. Reviewing the evidence in totality at length I am satisfied that the assault while armed with a dangerous weapon came from the accused. An assault upon the person of another with a deadly weapon, tool, device or in statement no doubt is likely to produce greater bodily harm than a mere fist or cane.

The use of the panga by the accused targeting the neck of the deceased was only capable of producing death or serious bodily harm. The gravemen of the offence murder is the use of violent force with an intent to kill or cause grievous harm.

As noted from the evidence the prosecution has discharged the burden of support of proof of the offence as defined in section 203 of the Penal Code. There was no evidence of the deceased being armed or making entry to his house to call for defence of self or property. In attacking the deceased, the accused formed the necessary malice intended to cause death or grievous harm to the deceased.

The accused did nothing to preserve life assuming indeed that the deceased was within the vicinity to commit a felony. The gravity of the injuries suffered by the deceased and the unreasonable force used by the accused, the part of the body targeted, and nature of the weapon used connotes malice aforethought as per **Section 206** of the Penal Code.

I accept the evidence adduced by the prosecution witnesses that the attack of the deceased person at night does not render him to be a thief in absence of any cogent evidence to that effect. The accused defence did not indicate that he lives in a gated community and that the deceased had actually attacked him first. According to PW5 earlier on he was involved in a brawl with another man. In the course of the fight accused person came to the scene while armed with a panga and a club. It was his evidence after accused intervention they walked away leaving him to go back to his house. The attack being referred to might have occurred after being separated by the accused.

In my considered view the circumstantial evidence shows no justification in the accused having to attack the deceased on his way home. In the accused own assertion there is a bar within the neighborhood where he had also gone to have some drinks before this fatal incident. The position of this case would be different if evidence was led that the deceased had trespassed into the compound of the accused.

The accused version is that the deceased had entered into his house to commit in robbery was meant to avail him the defence of self or property. Thus the accused has not shown that he did cause bodily harm and did use a deadly weapon because he acted without legal justification of self-defence. The defence of self is therefore not available to the accused.

As a result, I find the accused guilty of the offence of murder contrary to **section 203** of the penal code and do convict him accordingly.

Sentence

The accused was tried and convicted of the offence of murder contrary to section 203 of the Penal Code punishable in terms of Section 204 of the same Act. The sentence prescribed under section 204 of the Code is a mandatory sentence of death. The mandatory nature of that section has since been declared unconstitutional to render the sentence upon a conviction of murder optional depending on the circumstances of each case. **(See The Supreme Court of Kenya in Francis Muruatetu & Another vs Republic, Petition No. 15 & 16 of 2017.)**

This ruling is to consider the appropriate and just sentence in view of the mitigating and aggravating circumstances of this case as well as the principles and purposes of sentence. The facts of the case reveal that the murder of the deceased was carried out in response to the suspicion by the accused that the deceased and his colleagues were thieves set to commit a felony. That is when he armed himself with panga which he used to act in self-defense and in the process inflicted fatal harm on deceased's neck. PW1 Dr. Njoroge formed the opinion that the cause of death was due to hemorrhagic shock due to incised sharp trauma to the neck.

Upon conviction and in order to assist the Court in reaching an appropriate sentence, the Court called for mitigation from the offender, the Pre-sentence Report, Probation Department in accordance with section 137I of the CPC. The said section provides as follows:

> **"137I. Address by parties**
>
> **(1) Upon conviction, the court may invite the parties to address it on the issue of sentencing in accordance with section 216.**
>
> **(2) In passing a sentence, the court shall take into account—**
>
> **(a) the period during which the accused person has been in custody;**
>
> **(b) a victim impact statement, if any, made in accordance with section 329C;**
>
> **(c) the stage in the proceedings at which the accused person indicated his intention to enter into a plea agreement and the circumstances in which this indication was given;**
>
> **(d) the nature and amount of any restitution or compensation agreed to be made by the accused person.**
>
> **(3) Where necessary and desirable, the court may in passing a sentence, take into account a probation officer's report."**
>
> **The Sentencing Policy Guidelines, 2016 ("the Guidelines") published by the Kenya Judiciary, require that the sentence imposed must meet the following objectives in totality;**
>
> ***a) Retribution: To punish the offender for his/her criminal conduct in a just manner.***
>
> ***b) Deterrence: To deter the offender from committing a similar offence subsequently as well as discourage other people from committing similar offences.***
>
> ***c) Rehabilitation: To enable the offender reform from his criminal disposition and become a law abiding person.***
>
> ***d) Restorative justice: To address the needs arising from criminal conduct such as loss and damages.***
>
> ***e) Community protection: To protect the community by incapacitating the offender.***
>
> ***f) Denunciation: To communicates the community's condemnation of the criminal conduct.***
>
> Further, Supreme Court in the **Francis Karioko Muruatetu decision (supra)** gave the following guidelines when this court will be considering the Applicant's application on re-sentencing:
>
> ***"[71]. As a consequence of this decision, paragraph 6.4-6.7 of the guidelines are no longer applicable. To avoid a lacuna, the following guidelines with regard to mitigating factors are applicable in a re-hearing sentence for the conviction of a murder charge:***
>
> ***(a) age of the offender;***
>
> ***(b) being a first offender;***
>
> ***(c) whether the offender pleaded guilty;***
>
> ***(d) character and record of the offender;***

(e) commission of the offence in response to gender-based violence;

(f) remorsefulness of the offender;

(g) the possibility of reform and social re-adaptation of the offender;

(h) any other factor that the Court considers relevant.

[72] We wish to make it very clear that these guidelines in no way replace judicial discretion. They are advisory and not mandatory. They are geared to promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process. This notwithstanding, we are obligated to point out here that paragraph 25 of the 2016 Judiciary Sentencing Policy Guidelines states that:

"25. GUIDELINE JUDGMENTS

25.1 Where there are guideline judgments, that is, decisions from the superior courts on a sentencing principle, the subordinate courts are bounded by it. It is the duty of the court to keep abreast with the guideline judgments pronounced. Equally, it is the duty of the prosecutor and defence counsel to inform the court of existing guideline judgments on an issue before it."

The Supreme Court further endeavoured to clarified that the guidelines did not in any way replace judicial discretion and are geared towards promoting consistency and transparency in sentencing hearings as well as to promote public understanding of the sentencing process.

The list of what constitutes mitigating and aggravating factors is not exhaustive when consideration is given to each case on its own. Some of the factors which the Courts take into consideration include the age of the convict both at the time of committing the offence as well as at the time of sentencing, whether the convict is a first offender, the time already served in prison by the convict; the personal and individual circumstances of the offender at the time of committing the offence and at the time of sentencing (e.g. their mental state; health; hardships, etc.) as well as the possibility of reform and social re-adaptation of the convict; the manner in which the offence was committed (i.e. whether an offensive weapon was used or not and whether he was intoxicated at the time of committing the offence) among other factors.

In the instant case, in respect of aggravating circumstances, despite the fact that the convict pleaded self-defense, it was dislodged by the state. There is no dispute whatsoever that a precious life that is jealously protected in terms of Article 26 of the Constitution of Kenya, 2010 was lost under appalling circumstances. In the sense that his death was caused by the accused's actions of assaulting the deceased with a dangerous weapon taking the form of a panga.

However, this Court is called upon not to merely look at the irreparable loss of life and the explicit circumstances pertaining to the death itself but that as it arrives at an appropriate sentence for the offender, it ought to also consider any other relevant factors that may work in mitigation of the sentence to be meted out.

I have taken into account some of the mitigating factors as couched in the presentence report which include the fact that the convict is a first offender, he is 36 years old and he was 34 at the time he committed the offence. Thus according to his area chief, at the time of arrest, the convict had lived a blameless life for a good thirty-four years and he is relatively a young adult at the time of sentencing. the area chief also stated that he had lived a life devoid of criminal tendencies. In that regard I note that the law, the principles and purposes of sentencing encourage the Courts to consider terms of imprisonment that are not too long and that allow reformation of the offenders.

Furthermore, the convict was arrested not long after the offence was committed and that he remained in remand up to the time of sentencing. The court shall take that period into account pursuant to section 333(2) of the Criminal Procedure Code.

Having taken into account the victim impact assessment report, the presentence report, the submissions and mitigation tendered by the Counsel for the accused and the aggravating factors of this matter. I also have taken into account the fact that this is a matter which involves the death of person as a result of the accused's actions. The offender did not successfully show to this court that there was imminent danger to his person or property which prompted him to use maximum, and excessive force against the deceased.

In sentencing the convict, I am guided by the Court of Appeal decisions post the **Muruatetu Case (supra)** that provide some guidance on the appropriate sentence. In **Jonathan Lemiso Ole Keni v Republic NRB Criminal Appeal No.51 of 2016 (2018) eKLR** where the appellant shot a person without any provocation, the court imposed a sentence of 30 years' imprisonment. In **John Ndede Ochodho alias Obago v Republic KSM CA Criminal Appeal No. 120 of 2014 (2018) eKLR,** the Court of Appeal upheld a sentence of 30 years in a case of murder where the appellant assaulted the deceased several times causing his death.

In view of the fact that the murder is a very serious offence which involves loss of life. Life cannot be compensated. I hereby sentence the convict to 30 years' imprisonment commencing from the date of arrest.

14 days Right of Appeal.

DATED, SIGNED AND DELIVERED AT KAJIADO THIS16th DAY OF AUGUST, 2019.

…….

R. NYAKUNDI

JUDGE