



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CR. REV. NO. 15 OF 2019

IRENE ADHIAMBO APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

(Being an application for Revision of sentence in Ukwala PMCRC No. 532 of 2016 dated 31.1.2017 before Hon. G. Adhiambo – SRM).

RULING

1. On 31.1.2017 the Convict/Applicant herein Irene Adhiambo and another were Convicted and sentenced to serve ten(10) years imprisonment for the offence of Manslaughter after a full trial vide Ukwala SRM Cr. Case No.532/2016.
2. The deceased was her husband whereas the co-accused, Leonidah Juma was her mother-in-law the mother to the deceased.
3. The co-accused, Leonida Juma filed an appeal against conviction and sentence but she later withdrew her appeal against conviction and urged the court to consider reducing sentence which the Court did vide HCRA No. 20 of 2018, reducing the Prison term from 10 years to 3 years imprisonment to be calculated from date of her arraignment on 23.8.2016. This was after considering a Probation report by Ms. Rhoda Wanyonyi dated 13.6.2019.
4. In the instant case, the Applicant has not filed any appeal. She however filed this application on 27.3.2019 and on 24.4.2019 and 24.7.2019 the Probation Officer noted the file but only filed the report on 29.7.2019 but the file was never brought up hence the delayed determination.
5. I have considered the application and the circumstances under which the offence of manslaughter was committed.
6. The incident involved family members fighting due to siblings rivalry. The deceased's mother was convicted too but was released by this Court on account of her mitigation and age 63 years and poor health. She suffered from T.B. She was released vide the order of 24.7.2019.
7. The Applicant's husband who was also involved in the fracas leading to the death of his brother is at large. She was left to carry the cross with her mother-in-law Leonidah Juma.
8. A life was lost, due to family feuds which were not resolved by the community. The Applicant is indeed a victim of circumstances despite her conviction for the offence.
9. The deceased, from the evidence on record, was an aggressor who had gone to beat up the Applicant herein for having issues with his wife. The Applicant, her husband and her mother-in-law joined in her rescue. The force used was excessive.
10. There is no contrary evidence. The Probation Officer's Report dated 26.7.2019 filed in Court on 29.7.2019 shows that the Convict is well behaved and hardworking. She is 31 years old and has 5 children aged between 1 – 12 years. They are in custody of her husband's sister who has 5 of her own children and is a widow.
11. The Applicant is a first offender, she is remorseful and regrets the offence.
12. Having considered all the above circumstances and the fact that the person who is believed to have caused the deceased's death was his brother who is at large. I hereby exercise discretion and revise the lawful sentence meted out on the convict and order that the convict Irene Adhiambo shall serve the Prison term already spent in prison.
13. Therefore, unless otherwise lawfully held, Irene Adhiambo be and is hereby set at liberty forthwith.

14. File closed.

DATED AT SIAYA THIS 26TH DAY OF SEPTEMBER, 2019.

HON. LADY JUSTICE R. E. ABURILI

JUDGE