



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MIGORI**

**[Coram: A. C. Mrima, J]**

**CRIMINAL CASE NO. 17 OF 2018.**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**BERNARD ONYANGO TAMBO.....ACCUSED**

**SENTENCE**

1. The Accused person herein was charged with the information of murder. He was tried, found guilty and convicted of the offence of murder on 08/11/2019. Parties tendered submissions and mitigations on sentence. The Defence Counsel urged this Court to exercise leniency as the accused person is remorseful with heavy family burdens.
2. The prosecution prayed for a severe sentence given that an innocent life was lost and although the accused person is a first offender he was liable to death sentence. It was also submitted that the Pre-Sentence Report was not favourable to the accused person.
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 by terminating the life of his wife and in the glare of the children. I have also taken into account the Pre-Sentence Report on record and its recommendation.
4. The accused person had a history of being violent when drunk. In this case it seems the accused person was well aware of what he intended to do on the deceased but hid under the veil of intoxication. The defence was however disallowed. The accused person and the deceased had small children. The children witnessed what the accused person did to their mother.
5. The Pre-Sentence Report stated that the children of both the deceased and the accused person were left with alot of pain and trauma.
6. The circumstances of this case are unique. There are aggregating factors. The interests of the children must be weighed against those of the accused person. Will the children be able to freely live with the accused person in view of what they witnessed? I do not think so.
7. I would have readily handed down a death sentence herein. However, by striking a balance between the interests of the accused person and those of the children and having considered the Pre-Sentence Report and being guided by the Sentencing Guidelines, I find that this is a case which is not fit for a non-custodial sentence. The accused person ought to be separated from the children for such a time to enable them grow without fear of their father. I hereby sentence the accused person to 40 years' imprisonment.

It is so ordered.

**DELIVERED, DATED and SIGNED at MIGORI this 17th day of December, 2019**

**A. C. MRIMA**

**JUDGE**

**Sentence delivered in open Court and in the presence of:**

**Miss. Apondi** Counsel for the Accused person.

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

**Evelyne Nyauke** – Court Assistant