



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

CRIMINAL CASE NO. 84 OF 2016

REPUBLIC.....PROSECUTOR

VS.

LENAH KINYA JOYCEACCUSED

RULING ON SENTENCE

1. The Accused Person herein is Lenah Kinya Joyce (“Accused Person”). She agreed to plead guilty to the lesser offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code, Chapter 63, Laws of Kenya vide a Plea Agreement dated 5th February, 2018. The Accused Person had originally been charged with the murder of Mary Nanyama Wanjala on 08/11/2016. She denied that charge.

2. The agreed facts as contained in the Plea Agreement are as follows:

[O]n the 8th day of November 2016 at around 16.30 hours, the Deceased herein confronted the Accused in her house and demanded to know why her husband was always charging his phone in the Accused’s house. The Deceased further claimed that her husband had an affair with the Accused and that was the reason as to why he used to charge his battery in the Accused’s house. The said argument degenerated into a physical confrontation between the two whereby the Deceased picked [up] a knife from the Accused’s house and attempted to stab the Accused and in the process of struggling with the said knife the Deceased was stabbed. The Deceased was rushed to a nearby clinic for treatment by neighbours and later to Makongeni Health Centre where she was declare dead on arrival. Meanwhile the Accused was arrested on the same day and later charged with the offence of murder.

3. The Prosecutor, Mr. Maatwa filed records showing that the Accused Person is a first offender. He reported that the victim’s family is not interested in addressing the Court on impact. He had no views on the appropriate sentence.

4. Mr. Farrah, the Defence Counsel, filed a detailed Affidavit in Mitigation. It raises the following relevant factors for consideration:

- a. First, that the Accused Person is relatively youthful and was only twenty-three years old when she committed the offence.
- b. Second, that she has been in custody since November, 2016 since she could not afford bail.
- c. Third, while in custody, she has been rehabilitated through active engagement in various

activities including peer and group therapy; bible study; paralegal training; artisanship and skills training in knitting, tailoring and beadwork.

d. Fourth, that she is deeply remorseful for the incident that led to the death of the Deceased.

e. Fifth, that the death was not planned and was a result of spontaneous action on her part for which she deeply regrets.

5. The Court requested for a pre-sentencing report. It was duly filed. It is quite favourable to the Accused Person. The recommendation is that the Accused Person is fit for a non-custodial sentence and that she is a good candidate for rehabilitation through probation services.

6. From the circumstances of this case, I wholly agree. There are many factors which militate in favour of a non-custodial sentence. I have noted that the Accused Person had demonstrated genuine remorse – both in demeanour and in her affidavit. She is a first offender. The offence she has pleaded to did not involve any depraved form of violence or malice. Indeed, it was the Deceased who attacked her first – even though she reacted with deadly force which was uncalled for in the circumstances. The offence was not pre-planned: it was the Deceased who found the Accused Person in her house. Additionally, the Accused Person has been in custody since November, 2016 – a period of sixteen (16) months – during which time she has been able to reflect on her actions. Lastly, the Accused Person is of relative youth at only twenty four years of age. She has a whole life ahead of her. Nothing useful will come out of incarcerating her in prison for any period of time beyond the time she has been in custody.

7. In the circumstances, I sentence the Accused Person to serve a Probation Sentence for a period of two years under the supervision and direction of the Probation Office, Thika Sub-County.

8. Orders accordingly.

Delivered at Kiambu this 15th Day of March, 2018.

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JOEL NGUGI

JUDGE