



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 60 OF 2013**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JACKLINE MILKA MURUNGA.....ACCUSED**

**RULING ON SENTENCE**

Jackline Milka Murunga has been tried for murder contrary to section 203 as read with section 204 of the Penal Code. She was accused of killing W. M. N. on 27<sup>th</sup> May 2013 in Nairobi. In its judgment delivered on 20<sup>th</sup> March 2018 this court found the accused not guilty of murder and acquitted her of the offence of murder. She was however found guilty and was convicted of the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. This court was informed by the Prosecution Counsel that the accused did not have a previous criminal record and therefore treats her as a first offender.

In mitigation before sentence the accused through her defense counsel Mr. Omari mitigated that she is a first offender and is remorseful for the death of the deceased; that she is a single mother of a 12 year old child; that she dropped out of school for lack of school fees and supported her son through her meager salary she earned as househelp; that she worked in a hostile environment due to abuse by the grandmother of the deceased; that she took good care of the deceased and had not planned to kill him; that she converted to SDA faith while in prison custody and is now a staunch Christian. She told the court that she has been in custody since 2013. She asked the court to give her to a non-custodial sentence.

Before passing the sentence this court commissioned for a pre-sentencing report from the probation officer. The report was filed in court on 9<sup>th</sup> April 2018 and I have had the opportunity to read it. I note that in the report the accused has admitted this offence and has explained how it happened. It is unfortunate that the accused took such a drastic action on a helpless little child who had medical challenges of his own.

I have taken into account the probation report and the mitigation of the accused. I have also taken into account the period of over four years the accused has stayed in custody awaiting this trial. She was brought to court in May 2013 to take the plea and has remained in custody until this time. The time spent in custody has been taken into account in this sentencing.

In my considered view, given the time spent in custody and given the gravity of this matter, justice will be served by sentencing the accused to a custodial term in prison. For that reason therefore, I hereby sentence Jackline Milka Murunga to serve three (3) years in prison. After completion of this custodial sentence the accused shall be supervised by the probation office for a period of two (2) years. She has been informed of her right to appeal within 14 days from today's date. Orders shall issue accordingly.

**Delivered, dated and signed this 12<sup>th</sup> day of April 2018.**

**S. N. Mutuku**

**Judge**