



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NANYUKI

CRIMINAL CASE NO. 10 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

JOHN MATHENGE.....ACCUSED

SENTENCE

1. John Mathenge was convicted by this court on 31st January 2018 of the offence of murder. He was convicted of murdering his wife Mary Wanjiku Kanyi (deceased).
2. The evidence that was tendered, and which is supported by the probation report and Laikipia Children Services report, is that Mathenge persistently abused his deceased wife and it is that abuse which culminated with her death. The deceased died a very painful death 48 days after being attacked by Mathenge.
3. The couple's son MW who was 3 years was subjected to the violent abuse of his mother; the deceased. I clearly recall MW narrating to the court how Mathenge threw a stove that was on fire to his deceased mother. MW said that as a result of that his mother went to heaven. It may never be known the extent of mental and psychological effect the violence meted to his deceased mother had on MW.
4. This court has a glimpse of how MW has been affected by Mathenge's behaviour to his deceased mother from the Laikipia Children's Services report dated 23rd March 2018. In that report MW is said to have mood swings which lead him to cry for no reason and without provocation. This has adversely affected MW education progress.
5. In my view the sentencing of Mathenge must bear in mind that psychological effect on MW.
6. The probation report is not favourable to Mathenge receiving non custodial sentence. The family of the deceased still have grudge and bitterness towards what Mathenge did to their kin. The community where Mathenge resided last are of the view that Mathenge, in view of his violent disposition is not fit to live amongst them.
7. I have taken into account that Mathenge is a first time offender. That he is remorseful and has vowed not to abuse alcohol: Which contributed to his violent behaviour. I have also considered that Mathenge is 31 years old.
8. Having considered the above I am of the view that it is necessary for Mathenge to serve a custodial sentence for him to learn how to live with other people in a non violent manner.
9. Bearing the above I do hereby sentence John Mathenge to serve **20 (twenty) years** jail term. During that period I request the prison authority, with the assistance of probation officers, to take John Mathenge through anger management program.
10. In respect of the child MW I order as follows:-

a) J W and D M are hereby given custody of the child MW until further orders of the court.

b) MW shall be taken to Simama Foundation Project, Laikipia for counselling and rehabilitation.

DATED AND DELIVERED AT NANYUKI THIS 11TH DAY OF APRIL 2018.

MARY KASANGO

JUDGE

CORAM:

Before Justice Mary Kasango

Court Assistant – Njue/Mariastella

Accused: John Mathenge

For Accused

For the State:

COURT

Sentence delivered in open court.

MARY KASANGO

JUDGE