

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT CHUKA

HCCR NO. 10 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

JULIUS MUKUNDI NYAGA.....ACCUSED

SENTENCE

1. **JULIUS MUKUNDI NYAGA** has been convicted on his own plea of guilty on the charge of murder with the particulars that he murdered his father- **NICHOLAS NYAGA GACHENA** (deceased) on 7th March, 2018 at Kanyanyankuru village, Kathangachini Location, Tharaka North Sub-County within Tharaka Nithi County.

2. This court has been told that the convict, armed with a bow and poisoned arrows shot at his late father as he took his dinner. The photographs taken from the scene of crime has shown this court the general set up of the scene and how the deceased met his death. The same is further illustrated by the post mortem report (P.Exhibit 6) and the arrow (P.Exhibit 3) recovered from the chest of the deceased. The deceased death certainly must have been painful and horrific given that the facts given by the prosecution and the exhibits tendered in court.

3.This court has been told that the cause of the quarrel between the deceased and his son (the convict herein) was a piece of land that the deceased had disposed so that his daughter could go to school. There can never be an excuse for the kind of reaction exhibited by the accused herein. He had no basis to block his father from catering for his children in whatever way he deemed fit.

4. This court has considered the mitigating circumstances, but the fact that the convict armed himself with poisoned arrows leaves this court with the conclusion that he was out to murder his innocent father. The accused person is a first offender yes but I am not satisfied that he was drunk at the time because no evidence was tendered to show that the murder was not premeditated. As I have observed arming himself with poisoned arrows really leaves one with no doubt as to the exact intention the convict had on his father.

This court has been told that the siblings of the accused are really angry about what the convict did to his father which is understandable and therefore even if this court was to be lenient, it must weigh the scales of justice and administer justice fairly by imposing an appropriate sentence. The law under **Section 204** of the **Penal Code** provides for death penalty but going by the decision of **Muruatetu's Case** by the Supreme court this court's hands are no longer tied by that provision. This in the light of that decision hereby sentences the accused herein to life imprisonment to enable him reflect on his actions and possibly reform.

He has 14 days right of appeal.

Dated, signed and delivered at Chuka this 31st day of October, 2018.

R.K. LIMO

JUDGE

31/10/2018

Sentence signed, dated and read in the open court in presence of Kijaro holding brief for Mugo for accused and Maari for state.

R. K. LIMO

JUDGE

31/10/2018