

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

CRIMINAL CASE NO. 26 OF 2015

REPUBLIC.....RESPONDENT

VERSUS

NANCY WANJA MIANO.....ACCUSED

JUDGEMENT

1. The accused was convicted of the offence of manslaughter by this court on 28th June 2016 contrary to section 205 of the Penal Code (Cap 63) Laws of Kenya. This judgement is only in relation to the punishment to be imposed upon her.
2. This court is required to take into account the mitigation of the accused in passing sentence. Mr Andande for the accused put forward the following mitigating factors for the accused. First, he stated that the accused was remorseful and regretted her acts. He also stated that the accused is a mother of two minor children aged 9 years and 4 years. He further stated that the first born child was taken to a child care center on orders of the Deputy Registrar of this court because there was no one left to take care of the nine year old girl. She was taken there on 14th March 2016, while the second born is currently with the accused in prison.
3. According to counsel, the accused acted out of provocation. He also further urged the court to take into account that the accused voluntarily surrendered herself to the police station after killing her husband. Furthermore, he also stated that the accused is a first offender and has been in remand custody for almost one year.
4. In addition to taking into account the mitigating factors, the court is also required to take into account that a life has been lost through the actions of the accused. I have also taken into account that the statutory sentence provided for for manslaughter is life imprisonment in terms of section 205 of the Penal Code. Furthermore, in sentencing this accused, I have also born in mind other relevant factors among them similar sentences imposed in cases of this nature. In the case ofXYZ, which case was similar to this one, I upheld a sentence of 8 years imprisonment which had imposed by a magisterial subordinate court in respect of the offence of manslaughter. That case was one of domestic violence in which the wife had killed her husband following a domestic quarrel. In that case too, the accused had undergone a full trial unlike the current one where the accused has pleaded guilty and had surrendered herself to the police following the killing of her husband.
5. Finally, in sentencing the accused, I also bear in mind that any sentence to be imposed should not be excessive and that I have discretion in terms of section 28 of the Penal Code in matters of sentence.
6. I have taken into account both the mitigating factors, the aggravating factors such as that a life has been lost, that the two minor girl children have been rendered orphans and that there has to be uniformity in matters of sentencing where the circumstances are similar.
7. In the light of all these matters, I hereby sentence the accused to seven years imprisonment.

JUDGEMENT DATED, SIGNED and DELIVERED in open court at **EMBU** this 12th day of June 2016

In the presence of

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Court clerk

J.M. BWONWONGA

JUDGE

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