

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO. 79 OF 2005

Lesiit, J.

REPUBLIC.....PROSECUTOR

VERSUS

PETER GITHONGO MAINA.....1ST ACCUSED

ELIZABHAN NJOROGE KURIA.....2ND ACCUSED

DUNCAN THUKU MWANGI ALIAS KIMANI.....3RD ACCUSED

RULING ON SENTENCE.

1. The 3rd accused in this case was convicted alone of murder contrary to **section 203** of the **Penal Code**. His co-accused was acquitted for insufficient evidence.
2. I have considered that the accused is a first offender. He declined to give any mitigation in this case.
3. I considered that the 3rd accused has been in custody during the pendency of his trial since 19th January 2011. I see however that this case was filed before this court in 2005. That means that the 3rd accused has been in custody in this trial for just over 10 years. The reason for the delay is not clear from this file as the original record is not annexed. I sympathise with him that he has had to wait for so long to have his case heard and concluded.
4. I have considered that the deceased was shot dead at point blank range by two young men, one of who was identified as the accused No.3 in this case. The shooting followed after the deceased life was threatened a period of five months or so before the attack. The circumstances of the attack were callous and cold blooded which I have considered.
5. The punishment for murder is provided under **section 204** of the **Penal Code** as death as by law prescribed. Accordingly I sentence the accused No.3 to death as by law prescribed.
6. The 3rd accused has a right of appeal within 14 days of today, against both the conviction and sentence.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF SEPTEMBER, 2016.

LESIIT, J

JUDGE