

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 30 OF 2013

REPUBLICPROSECUTOR

VERSUS

SCHOLARSTICA WANJAGI MUREITHI.....ACCUSED

SENTENCE

Scholastica Wanjagi Mureithi was convicted of manslaughter contrary to section 202 (1) of the Penal Code on 16th April 2015. She had been charged with murder contrary to section 203 read with section 204 of the Penal Code. After reviewing all the evidence of the nine (9) prosecution witnesses this court found the charge of murder not proved beyond reasonable doubt but the offence manslaughter had been proved.

Upon conviction Miss Omungala who defended Scholastica during the entire trial mitigated on her behalf that Scholastica was aged 28 years of age and was first contracted a church wedding in 2004 with one Simon Munyithia; that both got their first child C.N in 2005; that her first husband died in 2008 through a traffic road accident; that in February 2010 she married the deceased who came with his own child A.M; that both got a third child P.K together in 2012. It was further submitted that Scholastica was operating her own hair salon before she was arrested and was earning about Kshs 25,000 per month; that she has the three children to care of singlehandedly; that she also takes care of her parents who are now taking care of her children. Court was further told that Scholastica is a first offender and is an upright citizen who is remorseful for what happened; that there is no bad blood between her and the relatives of the deceased and that they are in constant communication. Miss Omungala asked the court to order that Scholastica serves a probation term.

This court called for a probation report. This was filed in court this morning. I have carefully read and considered the report. I note that the family members of the deceased have not come to terms with his death and are still hurting. This contradicts what this court was told in mitigation that the family members have no ill feelings against the accused and are in constant communication. Further the report shows that the accused is not remorseful and still denies causing the death of the deceased. The report, which captures interviews from the family of the deceased, that of the accused, that of the first husband and the accused herself is not favourable to the accused. Although the accused pleaded for a probation sentence this may not be beneficial to her. She needs institutional rehabilitation where counseling services will be available. I have noted that she has been in custody for two years and three months.

It is the view of this court therefore that a non-custodial sentence may not benefit the accused and having considered the circumstances leading to the death of the deceased I hereby sentence her to serve a custodial sentence of 10 years. She is informed of her right to appeal. Orders are made accordingly.

Dated, signed and delivered this 28th day of May 2015.

S. N. MUTUKU

JUDGE

In the presence of:

Ms Florence Ikol, Prosecution Counsel

Ms Omungala, Defence Counsel

Ms Alambo, Probation Officer

Ms Scholastica Wanjagi Mureithi, the accused

Daniel Ngumbi, Court Clerk