

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 4 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

PHARIS KABAIKU MBUTHIA.....ACCUSED

SENTENCE

Pharis Kabaiku Mbuthia was charged, tried and convicted for murder contrary to section 203 as read with section 204 of the Penal Code. The court took evidence of ten prosecution witnesses and one defence witness. After the analysis of this evidence, the court was persuaded that the prosecution had proved the crime of murder beyond reasonable and consequently entered a conviction. The victim of the crime is one Mary Kathambi Koome. The crime was committed on 5th January 2013 at KCC Village in Nairobi.

Through his advocate, Pharis appealed to this court to show mercy and leniency in sentencing him. He said he has been traumatized from the events that led to the death of the victim and he regrets the death. Pharis said he acknowledges that the family of the victim still grieves over her death and said he is remorseful. He said he surrendered to the police and led them to the recovery of the knife, the murder weapon. He told the court that with counseling he can turn out to be a better person.

The law, Section 204 of the Penal Code, prescribes the penalty for murder in the following terms:

Any person convicted of murder shall be sentenced to death.

I have taken into account the mitigation presented in court and the law on death penalty, specifically Article 26 (3) of the Constitution and section 204 of the Penal Code as well as authorities such as **Joseph Njuguna Mwaura & 2 others v Republic [2013] eKLR** and **Godfrey Ngotho Mutiso v Republic [2010] eKLR**. I find that I have no option in the matter other than the fidelity to the law. I therefore sentence Pharis Kabaiku Mbuthia to suffer death as authorized by law. Orders shall issue accordingly. The right to appeal has been explained to Pharis Kabaiku Mbuthia.

Dated, signed and delivered in open court this 28th October 2015.

S. N. MUTUKU

JUDGE

In the presence of:

Ms Magoma, prosecution counsel

Mr. Omollo, defence counsel

Mr. Pharis Kabaiku Mbuthia, accused

Mr. Daniel Ngumbi, court clerk