

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 72 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

SAMUEL TEDDY GITAU.....ACCUSED

SENTENCE

Samuel Teddy Gitau was charged with murder contrary to section 203 as read with section 204 of the Penal Code. He was tried and found guilty. This court convicted him for murder through its Judgement delivered on 28th October 2015. He was allowed time to mitigate before the sentence was imposed.

In his mitigation through his defence Counsel Ms M. A. Abong’o, advocate, the accused told the court that he is the sole bread winner for his three children and an elderly sick mother. He said that he was remorseful for what happened leading to the death of his wife and asked the court for mercy and leniency in sentencing.

The penalty for murder is death as provided for in section 204 of the Penal Code. Through various pronouncements of the courts, death sentence has been upheld as the only penalty in certain criminal offences including murder (see **Joseph Njuguna Mwaura & 2 others v Republic [2013] eKLR** and **Jackson Maina Wangui & another v Republic [2014] eKLR**). The import of these cases taken together with legislative provisions including the Constitution of Kenya 2010, specifically Article 26 (3) and the Penal Code, courts do not have any discretion in the matter but to impose a death sentence where an accused person has been convicted for murder.

In view of this therefore this court finds that it has no discretion to sentence the accused to any other penalty save for death. Consequently, Samuel Teddy Gitau is sentenced to suffer death in the manner authorized by law. Orders shall issue accordingly.

Dated, signed and delivered in open court this 16th day of November 2015.

S.N. MUTUKU

JUDGE

In the presence of:

Ms Macharia for the prosecution

Ms Abongo for the convicted person

Mr. Samuel Teddy Gitau, the convicted person

Mr. Daniel Ngumbi, court clerk