

REPUBLIC OF KENYA

High Court at Eldoret

Criminal Case 21 of 2006

REPUBLIC.....PROSECUTOR

VERSUS

JOSEPH KIPROTICH MAIYO.....ACCUSED

SENTENCE

The mandatory sentence authorized by law is provided under Section 204 of the Penal Code, which is death.

In the case of **GODFREY NGOTHO MUTISO -VS- R (2010) eKLR** the death sentence is no longer the mandatory sentence and is now the maximum sentence.

The death penalty is also a colonial and archaic law that has no place in an evolving and changing modern society. It also goes against the letter and spirit of the Constitution of Kenya (2010) as it violates the fundamental right to life.

This court has made reference to and is persuaded by the case of **R -VS- LERAAS LENCHURA** where Emukule J incorporated customary law into Criminal jurisprudence and the Learned Judge did not impose the mandatory death sentence.

The advanced age of the Accused and the years he has spent languishing in remand have been taken into consideration when deciding on the sentence.

The Accused is aged seventy (70) years and the sentence given herein will be equivalent to a life sentence as the Accused will spend the end years of his life in prison.

CONCLUSION.

For the reasons stated above the Accused is sentenced to serve a term of ten (10) years imprisonment.

It is so ordered.

Dated and delivered at Eldoret this 22nd day of November 2012

**A.MSHILA
JUDGE**