



**Republic v Jadi & 2 others (Criminal Case 49 of 2018)
[2025] KEHC 1951 (KLR) (Crim) (25 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1951 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE 49 OF 2018
K KIMONDO, J
FEBRUARY 25, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

FAITH JADI 1ST ACCUSED

WESLEY SAMUEL 2ND ACCUSED

PETER GICHIMU KIARIE ALIAS MUHIMU 3RD ACCUSED

SENTENCE

1. The three accused persons were adjudged guilty of murder by the High Court on 24th October 2024. I called for their records as well as pre-sentencing reports.
2. On 22nd January 2025, I conducted a sentencing session and heard submissions from the learned prosecution counsel, Ms. Kigira; and, the submissions and mitigation from the learned counsel for the accused, Mr. Masara.
3. I have considered the circumstances surrounding this offence. The deceased was last seen alive on 2nd September 2018 at a bar styled Texas Club. On 6th September 2018, his decomposed body was found afloat a dam at Dam Village, Mountain View Area, Nairobi with a visible injury at the back of the head.
4. The court found that all the three accused persons jointly assaulted the deceased with beer bottles, kicks and fists. The deceased died as a direct consequence of the attack. Although the deceased was drunk and causing a nuisance at the pub, he did not deserve the punishment.



5. I have also taken into account the mitigation tendered by their learned counsel. Principally, he argued that they were remorseful and first offenders; and, that they should be granted an opportunity to open a new chapter in their lives. In a synopsis, it was a plea for clemency.
6. I have also paid heed to the pre-sentencing reports filed by probation officers between 21st and 22nd January 2025. The common conclusion is that each of the accused merits a probation order or non-custodial sentence.
7. Learned prosecution counsel, Ms. Kigira, implored the court to take into account the grave nature of the offence and its impact on the family of the victim. In that regard, she submitted that the pre-sentence reports did not contain interviews with the victim's relatives and remained scanty on the matter.
8. The Victims Protection Act dictates that the views of the victim's family be considered at this stage. All the pre-sentence reports claimed that the family of the victim had "relocated to an unknown location" and that efforts to trace them were "fruitless". Doing the best that I can, I have studied the earlier pre-bail reports filed in December 2021 in which the father of the deceased stated that the deceased was aged 23 and single.
9. Murder is a grave felony that attracts the death penalty. However, following the momentous decision of the Supreme Court in *Francis Karioko Muruatetu & another v Republic*, Consolidated Petitions Nos. 15 & 16 of 2015 [2017] eKLR, the mandatory nature of the death sentence as provided for under Section 204 of the *Penal Code* was declared unconstitutional. This did not outlaw the death penalty, but it left the court with discretion to impose a lighter sentence.
10. The sentence here must thus be commensurate to the moral blameworthiness of the offenders but also guided by the nature and gravity of crime. Considering all the circumstances of the offence, I am not satisfied that a probation order or non-custodial sentence would be appropriate. Justice in this case can only be served through a custodial sentence.
11. I accordingly sentence each of the accused persons to fifteen (15) years imprisonment. In accordance with section 333 (2) of the *Criminal Procedure Code*, the period spent in remand custody from the date of their arrest (but excluding such period as when any of the accused was out on bail) shall be deducted from the sentence.
12. The accused have a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court. A copy of the proceedings, judgment and sentence shall be supplied to them immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 25TH DAY OF FEBRUARY 2025.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused persons.

Mr. Oyugi for Mr. Masara for the accused persons instructed by Masara & Company Advocates.

Ms. Kigira for the Republic instructed by the office of the Director of Public prosecutions.

Mr. E. Ombuna, Court Assistant.

