



**Republic v Mburu (Criminal Case 23 of 2017)
[2025] KEHC 5714 (KLR) (Crim) (7 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 5714 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE 23 OF 2017**

LN MUTENDE, J

MAY 7, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

PATRICK MBURU ACCUSED

SENTENCE

1. Patrick Mburu, the Accused, was pronounced guilty, convicted of the murder of Sabina Juma, following the incident which occurred on 12th May, 2017 along Ngomongo Road, near St. John Catholic Primary School at Kariobangi Area. No previous records were availed in respect of the Accused hence Ms. Ogweno, learned Prosecution Counsel asked the court to treat him as a first offender.
2. In mitigation through learned defence counsel, Mr. Gatobu, submitted that.....
3. The primary victim was the pillar of the family, financially, emotionally and socially as her husband had a physical disability. He was of the view that the Accused deserved a sentence that was commensurate with the offence he committed.
4. The Community represented by the local administrator and members of public knew the Accused to have had a long standing history of alcohol, drugs and substances abuse as well as violent behaviour. They urged that the accused having been in custody for close to eight years, if released to the community, it is unlikely to be upset.
5. It is urged by the learned defence counsel that the Accused is a first offender, he is remorseful and acknowledges pain caused to the deceased. That he has a difficult background having been homeless



- and worked as a garbage collector at the time of the incident. At the time of arrest, he suffered emotionally and physically as he suffered mob justice. He prayed for a lenient sentence.
6. Learned prosecution counsel Ms. Ogwenyo submitted that the husband to the deceased is disabled and depended entirely upon her. That the Accused was known to be carrying a knife in his area of residence that he would always use to attack people. That he was arrested by the mob because he was running away. She urged the court to find that he was in need of rehabilitation.
 7. The accused contravened Section 204 of the *Penal Code* which provides for a death penalty. In *Francis Karioko Muruatetu & Another v Republic* [2017] eKLR the Supreme Court held that mandatory death penalty for murder was unconstitutional. The death penalty is still available but it should be meted out in deserving cases and as a last resort.
 8. The court has considered the facts of the case and the mitigation factors put forth. The sentencing process requires the court to balance the aggravating and mitigating factors and also consider the objectives of sentencing which include ensuring that the offender is adequately punished, preventing future crime, reforming the offender and making the offender accountable so as to promote a sense of responsibility.
 9. The deceased succumbed to fatal injuries sustained, the evidence adduced and the post-mortem report proved the brutal and intended death.
 10. The murder weapon was a knife which was turned into a lethal weapon. This demonstrated how heinous the crime committed was.
 11. The deceased was an adult woman with responsibilities that no other person could discharge like caring for her spouse living with a disability.
 12. The Pre-sentence report indicate that the Accused has no vocational training or discernible skillset. He was earning a living through picking plastics and scrap metals at Dandora Dumpsite and selling them. There is no indication of any attempt by the Accused so far of being reformed. The Probation Officer was of the view that rehabilitation on non-custodial sentence would not be tenable in respect of the Accused.
 13. Rehabilitating an offender may be complex as it would call on focusing on not only social but psychological attitudinal aspects. There would be need to identify what may have contributed to the violent behaviour and what intervention is needed to address it. This can only be achieved when the Accused is incarcerated.
 14. Looking at comparable decisions where the accused used dangerous weapons and caused grievous and fatal injuries; In *Republic v Peter Njoroge Muthua* [2021] eKLR, the accused person killed an innocent person because of mere suspicion that he was having an affair with his girlfriend. He also stabbed his girlfriend and drank poison in attempt to commit suicide, the offence was reduced to manslaughter and the accused was sentenced to (10) years imprisonment.
 15. In *Republic v Ruth Wanjiku Kamande* [2018] eKLR, Lessit J (As she then was) sentenced the accused to death. The court was of the view that that the accused deliberately stabbed the victim going by the manner in which she executed the injuries by the number of stabs and the choice of the area stabbed. The stabs were 25 in number. She was sentenced to suffer death.
 16. Guided by the authorities cited, and taking into consideration all factors and circumstances in which the offence was committed and the fact that the accused did not save judicial time, I sentence the



accused to serve twenty (20) years imprisonment to be effective from the date of arraignment, the 2nd day of June, 2017.

17. It is so ordered.

Right of Appeal is explained.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 7TH DAY OF MAY, 2025.

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L.N. MUTENDE

JUDGE

