



Republic v Lusuli (Criminal Case 11 of 2018) [2024] KEHC 9347 (KLR) (18 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9347 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 11 OF 2018
SC CHIRCHIR, J
JULY 18, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

SIMON IKUNZA LUSULI ACCUSED

RULING

1. The Accused herein was convicted of Murder on 22/2/2024.
Thereafter the Director of Probation and After care services prepared a social inquiry report on the accused, and the parties were given an opportunity to make their respective submissions.
2. Through his Advocate Mr Otysieno, the accused told the court he is remorseful and a first offender. He also stated he is a sole bread winner for his family. He seeks for leniency.
3. Ms Osoro, for the Prosecution submitted that the aggravating factors in this case outweighs the mitigating ones, and that the sentence meted out should speak to sanctity of life. She urged the court to pass sentence as provided for in the law.
4. According to the social inquiry, the report paints a picture of an otherwise responsible citizen, prior to the murder incident. His last- born child is 15 years and he lost his wife a while ago. The inquiry also established that the offence occurred during his tenure as a member of the “Nyumba Kumi” committee.
5. I have considered the respective submissions. The accused is a first offender and he is remorseful. He is also his family’s sole provider having lost his wife a while back, with the youngest child now aged 15 years. Being a first offender, and remorseful, are mitigating factors under paragraphs 23.8.7 and 23.8.8, respectively of the Kenya Judiciary sentencing policy guidelines.



6. However, the deceased's right to life was taken away in a violent manner, by a group in which the accused herein was part of. Commission of an offence in a group is an aggravating factor (Ref. Paragraph 23.7.6 of the sentencing policy guidelines).
7. Taking into consideration all the foregoing, I hereby sentence the Accused to 20 years in prison. The sentence will take effect from the date of conviction.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 18TH DAY OF JULY, 2024.

S. CHIRCHIR

JUDGE.

In the presence of:

Godwin – Court Assistant

The Accused.

