



**Republic v Kuria (Criminal Case 5 of 2017)
[2023] KEHC 576 (KLR) (9 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 576 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 5 OF 2017
MM KASANGO, J
FEBRUARY 9, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPHINE NJERI KURIA ACCUSED

SENTENCE

1. Josephine Njeri Kuria, (hereafter Josephine) was convicted by this court on June 9, 2022 with the offence of murder.

Facts

2. Josephine and the deceased lived together for 3 years in “come we stay” relationship. Josephine stabbed the deceased on his chest and his back with two different knives. Both knives were left imbedded in the deceased until the deceased’s cousin, who went to assist deceased, removed the knife on the chest. That cousin was unable to remove the knife imbedded in the deceased back. There was evidence that Josephine had previously stabbed the deceased even though that time, the stabbing was not fatal. The deceased’s family obviously took the view that that first stabbing was serious enough to lead them to return Josephine to her parent’s home which signified a break up of Josephine’s relationship with the deceased. Josephine did later reconcile and returned to the deceased’s home.
3. Although Josephine raised self defence as reason for stabbing the deceased twice in the best on the back, this court rejected that defence.

Victim’s impact

4. The deceased’s father informed the court that, following the death of his first-born son the deceased, his wife and mother of the deceased suffered shock which led to her suffering a stroke. Deceased’s father



said he has had to sell all that he owned to cater for medical bills of his wife. He further stated that his second born son suffered depression following deceased's death.

Mitigation

5. Josephine is a first-time offender. She sought court's leniency in sentencing. Her learned advocate, Mr Njehu stated that the court should consider that she had not run away after the incident but that rather she went and reported the matter to the police. Josephine has two young children and in her own words she requested the court to have mercy on her and give her a non-custodial sentence so she can continue looking after her children.

Determination

6. In considering the sentence in this case, I note there was aggravating factors. The obvious is that Josephine was disappointed that the deceased wanted to end their relationship. When deceased failed to heed her plea for reconciliation, she stabbed him not once but twice with two different knives that remained imbedded in the deceased body. In order to cover up her offence, Josephine alleged that she stabbed deceased because he was strangling her. The mitigating factor is that Josephine is first time offender. She is young and a mother of two young children.
7. The court in sentencing Josephine will be guided by the holding of the case *Republic vs Jagan and another* (2001) eKLR as follows: -

“The purpose of a sentence is usually to disapprove or denounce unlawful conduct as a deterrent to deter the offender from committing the offence, to separate offenders from society if necessary to assist in rehabilitation of offenders, and in retribution by providing for reparation for harm done to victims in particular to society in general. It is also seen as promoting a source of responsibility in offenders”.

8. The sentence that is appropriate to hold Josephine accountable for what she did and to denounce her conduct is imprisonment of 10 years.

Conclusion

9. In the end, given the foregoing, I hereby sentence Josephine Njeri Kuria to ten (10) years imprisonment with a credit of 2 years for the murder of Moses Mwangi Gathitu (deceased).

RULING DATED AND DELIVERED AT KIAMBU THIS 9TH DAY OF FEBRUARY, 2023.

MARY KASANGO

JUDGE

Coram:

Court assistant : Mourice/Julia

For DPP : -

Accused: Josephine Njeri Kuria:- present

For Josephine Njeri Kuria the accused:- Mr Njehu

Instructed by DPP:- Mr Gacharia

RULING delivered virtually.



MARY KASANGO
JUDGE

