



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mburu (Criminal Case 78 of 2016)
[2023] KEHC 575 (KLR) (9 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 575 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 78 OF 2016
MM KASANGO, J
FEBRUARY 9, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

PAUL KAMAU MBURU RESPONDENT

RULING

1. Paul Kamau Mburu (Paul), was convicted of the offence of murder by this court's judgment of March 10, 2022. Paul murdered Teresiah Njeri Wanjiku (deceased) his aunt.

Facts

2. On April 30, 2016 accused went to the deceased's home and offered her some casual work. This was not the first time Paul had asked deceased to accompany him for casual job. After two days, the deceased's body was found at a farm where Paul had been working. Deceased's body was discovered by her husband. He first noticed at that farm the deceased's one gum boot and her under wear. On reporting that finding to the police and a search being undertaken, the deceased's body was found covered with tree branches in an effort to conceal it. The body was not far from the underclothes that were found.
3. The post-mortem report shows that deceased was 35 years old, at the time of her death. Death was due to asphyxiation due to ligature strangulation.

Mitigation

4. Paul in mitigation stated that he was remorseful and asked for forgiveness. He sought that he be granted on custodial sentence.



Sentencing Decision

5. This court shall be guided by the sentencing guidelines in the discourse of the Supreme Court in the case of Francis Karioko Muruatetu And Another v Republic Petition No 15 of 2015 that states as follows:-

“... the following guidelines with regard to mitigating factors are applicable in a re-hearing sentence for the conviction of a murder charge:

- (a) age of the offender;
- (b) being a first offender;
- (c) whether the offender pleaded guilty;
- (d) character and record of the offender;
- (e) commission of the offence in response to gender-based violence;
- (f) remorsefulness of the offender;
- (g) the possibility of reform and social re-adaptation of the offender;
- (h) any other factor that the Court considers relevant.”

6. Paul was 22 years old when he committed the offence of murder. He is a first-time offender. The commission of the offence was against a mother of two children.

7. Paul pleaded not guilty to the offence but after trial he was convicted as charged.

8. Although Paul stated he was remorseful that statement is not supported by any acknowledgement of commission of the offence. Further, although Paul in mitigation stated he has two children who depend on him, the probation report filed in court of December 19, 2016 does not support the same. The report noted that Paul co-habited with a lady for 3 months but they parted ways. There was no issue from that relationship. The fact that Paul lied in mitigation in respect of children, he does not have, reveals he is of a character that cannot be trusted. It leads me to conclude that Paul is not remorseful of the offence.

9. Murder is the most serious crime. In sentencing Paul, I will consider that his sentence should demonstrate that the offence requires to be denounced, that the community needs to be protected and that Paul needs rehabilitation.

Conclusion

10. In the end and given the foregoing, I hereby sentence Paul for the murder of Teresia Njeri Wanjiku to imprisonment of 35 (thirty-five) years with credit of 6 years and 8 months being given to that sentence.

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

MARY KASANGO

JUDGE

In the presence of:-

Coram:

Court Assistant : Mourice/Julia



For DPP :-

Paul Kamau Mburu – accused present

For accused:- Absent

Instructed by DPP:- Mr Gacharia

RULING delivered virtually.

MARY KASANGO

JUDGE

