



**Director of Public Prosecutions v Kareithi (Criminal Case E009 of 2020)
[2024] KEHC 16355 (KLR) (17 December 2024) (Sentence)**

Neutral citation: [2024] KEHC 16355 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE E009 OF 2020
HM NYAGA, J
DECEMBER 17, 2024**

BETWEEN

DIRECTOR OF PUBLIC PROSECUTIONS PROSECUTION

AND

CHARLES KAREITHI ACCUSED

SENTENCE

1. The accused were convicted on the offence of murder, contrary to section 203 as read with section 204 of the [Penal Code](#). The Judge who convicted him has since been transferred from the station.
2. Sentencing by a court which did not hear the case as was provided under section 200 (2) of the [CPC](#) which states that:-
 - (2) Where a magistrate who has delivered judgment in a case but has not passed sentence, ceases to exercise jurisdiction therein and is succeeded by a magistrate who has and exercises that jurisdiction, the succeeding magistrate may pass sentence or make any order that he could have made if he had delivered judgment.
3. The [Judiciary Sentencing Policy Guidelines](#) (2023) provide for what factors are to be considered. They state as follows;

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other – insofar as possible, sentences imposed should be geared towards meeting the objectives in totality.

Retribution: To punish the offender for their criminal conduct in a just manner.

Deterrence: To deter the offender from committing a similar or any other offence in future as well as to discourage the public from committing offences.



Rehabilitation: To enable the offender to reform from his/her criminal disposition and become a law-abiding person.

Restorative justice: To address the needs arising from the criminal conduct such as loss and damages sustained by the victim or the community and to promote a sense of responsibility through the offender's contribution towards meeting those needs.

Community protection: To protect the community by removing the offender from the community thus avoiding the further perpetuation of the offender's criminal acts.

Denunciation: To clearly communicate the community's condemnation of the criminal conduct.

Reconciliation: To mend the relationship between the offender, the victim and the community.

Reintegration: To facilitate the re-entry of the offender into the society.

4. In *Francis Muruatetu & others v Republic* [2017] eKLR, the Supreme Court found that even in cases of murder the trial court is at liberty, if the court is to find that the circumstances do not warrant a death sentence, and the court has a discretion to impose a lesser sentence. The court also set out the factors to be considered in sentencing which are aligned to the guidelines I have referred to.
5. The circumstances of the case are quite sad. The accused was one of those tasked to care for the deceased and other initiates after undergoing their rite of passage. The deceased was subjected to discipline, for allegedly breaking the seclusion rules by going to his mother's house.
6. Whereas a young man like the deceased required discipline and guidance, what was meted on him was a brutal assault, disregarding the fact that he was still healing from the surgical procedure conducted on him.
7. Having considered the matter, I think that there is need to make the Accused atone for his acts and also send a warning out there that some cultural practices are not to be tolerated in this day and age. I feel the pain of the parents who lost a child who was yet to fulfill his potential in life.
8. I therefore sentence the accused to seven (7) years imprisonment.
9. Under section 333 (2) *C.P.C.* the sentence is to commence on 1/8/2024 when the accused's bond was cancelled upon conviction.
10. Right of Appeal is explained.

DATED, SIGNED AND DELIVERED AT MERU THIS 17TH DAY OF DECEMBER 2024.

HESTON M. NYAGA

JUDGE

