

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 3 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

CHARLES KANG'ETHE KAMANDE.....ACCUSED

SENTENCE

1. The accused has unequivocally pleaded *guilty* for the offence of *murder*. The deceased was his wife. From the statement of facts, the motive was annoyance over alleged illicit affair between the deceased and unnamed person(s).
2. This is a grave felony that attracts the sentence of death. However, following the landmark decision of the Supreme Court in ***Francis Karioko Muruatetu & another v Republic***, Consolidated Petitions Nos. 15 & 16 of 2015 [2017] eKLR, the *mandatory* nature of the death sentence as provided for under Section 204 of the **Penal Code** was declared unconstitutional. This did not outlaw the death penalty, but it left the court with discretion to impose a lighter sentence.
3. I have considered the circumstances surrounding this offence. The accused planned the murder over a period of time. He used a sharp panga to hack the deceased to death. The offence was clearly pre-meditated and an innocent life was lost. I have also taken into account the mitigation tendered by his counsel. The accused is a first offender and has expressed genuine remorse for his actions.
4. The rule of thumb is that sentence *should be commensurate to the moral blameworthiness of the offender* but also guided by the *nature and gravity of crime*. Justice in this case calls for a custodial sentence. Doing the best that I can, I sentence the accused to ten (10) years imprisonment. The period served by the accused in custody from the date of his arrest on 18th January 2017 to date shall be *deducted* from this sentence.
5. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANG'A THIS 5TH DAY OF OCTOBER 2021.

KANYI KIMONDO

JUDGE

Sentence read in open court in the presence of-

Accused.

Ms. A. Gakumu for the Republic.

Ms. Dorcas Waichuhi, Court Assistant.