



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**(CORAM: CHERERE- J.)**

**CRIMINAL PETITION NO. E011 OF 2021**

**BETWEEN**

**PHILIP MURIUKI AMBAO.....PETITIONER**

**AND**

**REPUBLIC.....RESPONDENT**

**JUDGMENT**

- 1) Petitioner was on 07<sup>th</sup> June, 2012 sentenced to suffer death for the offence of murder. His appeal to the Court of Appeal vide **Philip Kariuki Ambao v Republic [2016] eKLR** was dismissed on 19<sup>th</sup> October, 2016.
- 2) Petitioner prays for resentence on the ground that he is remorseful and has been in custody for 13 years.
- 3) The state through Ms.Mwaniki, learned counsel for the state submitted that the sentence imposed on the Petitioner was constitutional and urged the court to uphold it.

**Analysis and Determination**

- 4) Death is a lawful sentence for murder. The Supreme Court decision in **Francis Kariuki Muruatetu & Another v Republic & 5 others [2016] eKLR** declaring the mandatory death sentence unconstitutional has necessitated resentencing of all persons previously sentenced to the mandatory minimum and maximum sentences.
- 5) I have considered **The Sentencing Policy Guidelines, 2016** and its application which is intended to promote transparency, consistency and fairness in sentencing (See **Michael Kathewa Laichena & another v Republic [2018] eKLR**).
- 6) Under the proviso to **section 333(2)** of the **Criminal Procedure Code (Chapter 75 of the Laws of Kenya)**, the court is entitled to take into account the period the Petitioner has spent in custody in determining the sentence. The court record shows that the petitioner has served about 9 years.
- 7) The Petitioner did not annex any certificate to demonstrate that he had undertaken any course as a means of reformation. He however submitted that he is remorseful and regrets his actions.
- 8) Whereas no length of sentence can restore life, I re-sentence Petitioner to **fifteen (15) years**' imprisonment from 07<sup>th</sup> June, 2012 when he was convicted which time in my considered view will give him time to reflect on his actions and come out of prison a better person.

**DELIVERED AT MERU THIS 09TH DAY OF DECEMBER 2021**

**T. W. CHERERE**

**JUDGE**

In the presence of-

**COURT ASSISTANT - KINOTI**

**PETITIONER - PRESENT**

**FOR THE STATE - MS. MWANIKI**