



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. 51 OF 2017**

**REPUBLIC.....PROSECUTOR**

**VS.**

**LAWRENCE JUMA MARENDE.....ACCUSED**

**RULING ON SENTENCE**

1.By this Court's judgment dated 14<sup>th</sup> October, 2021 this Court found **LAWRENCE JUMA MARENDE (Juma)** guilty of manslaughter of **Joseph Thuo Migwi** deceased.

**FACTUAL BACKGROUND**

2.**Juma** admitted hitting the deceased with a metal bar but in his defence, stated that he acted in self-defence.

3.**Juma** had on the material day requested his estranged wife, Susan, to take to his house his sim card. Susan took the sim card but her evidence was that **Juma** took her cell phone which he said he would only release on Susan refunding him money he as expended for training of Susan's niece.

4.Susan seems to have later gone to **Juma's** house with people whom she hoped would assist her to recover her phone from **Juma**. The court by its judgment hereof made the following finding:-

***“I am satisfied that the accused (Juma) was provoked by person or persons who accompanied Susan to recover her phone from the accused. Susan was not candid to say why she needed the deceased and perhaps others to escort her to accused's house when in fact she did not testify that the accused had previously been violent towards her. Why then did she need to be accompanied? Was it more probable that Susan and the deceased, amongst others, were the aggressors towards the accused?”***

***It is because of the above findings that I find that the accused committed an unlawful act which caused the death of the deceased but the accused did not have malice aforethought.***

**JUMA'S MITIGATION**

5.**Juma** stated that he has been detained in remand for 5 years, but indeed it is 4 years having been arrested on 16<sup>th</sup> October, 2017.

6.**Juma** is remorseful of his action which resulted in the death of deceased. He however stated that his action was due to the provocation by the crowd who accompanied Susan to his house.

7.**Juma** has during his period of incarceration undertaken in rehabilitative programs that is Peer Counselling Skills Training by an organization called *Faraja Discipleship Training* by Prison Fellowship Kenya and the program of the Prisoner's Journey by Prison Fellowship International.

**ANALYSIS AND DETERMINATION**

8.I will begin by citing the case **NICHOLA MUKALI NDETEI VS. REPUBLIC (2019) eKLR** where the court had this to say on sentencing:-

**“23. In the case R VS. SCOTT (2005) NSWCCA 152 Howie, Grove and Barr JJ stated:-**

**“There is a fundamental and immutable principle of sentencing that this sentence imposed must ultimately reflect the objective seriousness of the offence committed and there must be a reasonable proportionality between the sentence passed in the circumstances of the crime committed... One of the purposes of punishment is to ensure that an offender is adequately punished...a further purpose of punishment is to denounce the conduct of the offender.”**

9.**Juma** is a first time offender. He is remorseful of committing the offence of manslaughter. He stated that he has taken rehabilitative programs which have assisted him on how to manage stress and anger. He also stated that he has learned the value of human relationships.

10.Bearing in the above and because **Juma** has been in custody awaiting the conclusion of his trial, I find and hold that he has served time enough in custody and he is in my view adequately punished for the offence he committed. This conclusion is with a view of this Court’s finding that he was provoked to act unlawfully.

11.This Court hereby does hereby sentence **Lawrence Juma Marende** to the time already served in remand. Accordingly, I order **Lawrence Juma Marende** to be released from custody unless otherwise lawfully held.

**RULING DATED AND DELIVERED AT KIAMBU THIS 9TH DAY OF DECEMBER, 2021.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: Maurice

For DPP: Mr. Kasyoka

For Accused: Absent

Accused: Present

**COURT**

RULING delivered virtually.

**MARY KASANGO**

**JUDGE**