



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL PETITION NO.18 OF 2018

CHARLES KIBET ROTICH.....PETITIONER

- V E R S U S -

REPUBLIC.....RESPONDENT

RULING ON RE-SENTENCE

1. The Petitioner was charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code in Criminal Case No.26/2005.
2. The Particulars of the charge were that on 16/7/2005 at Kabolgong Village in Bureti District of Rift Valley Province, the Petitioner murdered Agnes Kerubo Chepkwony.
3. The Prosecution evidence in brief was that the Deceased was the Petitioner's mother. The Petitioner had thrown food at the Deceased and threatened her with dire consequences. He had gone ahead to burn her clothes and Mattress and the matter was reported to the police and the petitioner was arrested.
4. When the Petitioner was released, he attacked the Deceased viciously and kicked her several times on the Stomach. He stabbed PW.1(his father) and tried to strangle PW.2 (his brother) when the two attempted to rescue the deceased. PW.4 came to their rescue and managed to cut the Petitioner with a panga on the right shoulder and the Petitioner ran away.
5. The Deceased died the following morning as she was trying to get out of bed and the Post Mortem confirmed she died as a result of severe hemperitoneum (hemorrhagic shock) resulting from blunt abdominal trauma.
6. The Petitioner was sentenced to death and the sentence has since been commuted to life imprisonment.
7. The petitioner herein is seeking resentencing on the basis of the Supreme Court's decision in **Francis Karioko Muruatetu & another v Republic [2017] eKLR**.
8. The Petitioner filed mitigation submission where he stated that the Trial Court did not consider his mitigation. Further, that he was 23 years when he was arrested and he is now 39 years old and he had no family of his own.
9. The Petitioner has stated in his submissions that he has regretted what transpired and he is now seeking review of the sentence and another chance in life.
10. The Probation Officer filed a Pre-Sentence Report on 3/9/2020 and stated that the family of the Petitioner is ready to receive him but his father is opposed to his release.
11. The Kenya Prison filed a report which states that the Petitioner was deployed to train as a Carpenter but he did not show interest and instead he preferred football where he uses most of his time.
12. I have carefully scrutinized the report herein. The Petitioner is still in denial. The account he gave about the incident was that he was fighting with his brother when his mother intervened and he hurt her accidentally on the stomach.
13. The Court found that he premeditated the death of his mother when he threatened her with dire consequences and burnt her clothes.
14. The mother had him arrested and she withdraw the case when he agreed to repay the destroyed properties.

15. The Petitioner has not trained in any skill while in custody for the last 15 years and there is no indication that he has been rehabilitated.
16. I find that there is no good reason to interfere with the sentence imposed upon the Petitioner which has now been commuted to life imprisonment.
17. The Petitioner who murdered his own mother in cold blood is a person who is rebellious against authority and not ready to be rehabilitated.
18. The petitioner who still insists that he hurt his mother accidentally is still in denial and he is not at all remorseful and it is dangerous to release such a person back to society when he has not learnt any lessons and he has not reformed.
19. I find that the Petition herein lacks in merit and I accordingly dismiss it.

Delivered, Dated and Signed at Kericho this 2nd Day of October, 2020

A.N. ONGERI

JUDGE