



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CRIMINAL CASE NO. 110 OF 2013

REPUBLIC

VERSUS

JULIUS KARIUKI MBATIA.....ACCUSED

RULING ON SENTENCE

1. The accused person, Julius Kariuki Mbatia was initially charged with the offence of Murder of one Janet Njoki Kariuki on the 24/11/2013 at Engoshura Farm Bahati in Nakuru County.

The prosecution case proceeded and closed after six witnesses testified. Before the accused could tender his defence evidence, both the prosecution and the accused entered into a plea bargain upon which an agreement was reached and recorded on the 10/3/2020.

The murder charge was reduced to Manslaughter upon which the accused pleaded guilty on the 10th March 2020.

2. Ms. Daye, Advocate for the accused mitigated on behalf of the accused on the 13/7/2020. The court was urged that the accused was remorseful and that during the custodial time served of approximately six years, the accused had learnt from his mistakes and was willing and ready to be rehabilitated back to the society. A pre-sentence report was prepared but it was not favourable to the accused. The accused urged for a non-custodial sentence.

3. Sentencing is an important task in criminal law and justice. The objectives of criminal law is imposition of an appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of the crime and the manner in which the crime was committed - **The Supreme Court of India in Alister Anthony Pareiva Vs. State of Maharashtra (202) 2 S.C 648 Paragraph 69.**

4. The court in the above case continued to state that

“What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances”.

5. The offence of **Manslaughter is defined under Section 202 as read with Section 205 of the Penal Code.** It attracts a life sentence upon conviction.

6. I have considered the Judiciary’s guidelines on sentencing as well as principles stated in the **Supreme Court decision, popularly known as the “Muruatetu Case” – Francis Karioko Muruatetu & another Vs. Republic; Petition NO. 15 & 16 (consolidated) of 2015 (2017) e KLR.**

These are:

- **The age of the offender**
- **Being a first offender**
- **Whether offender pleaded guilty**
- **Character and record of the offender**
- **Commission of offence in response to gender – based violence**

- **Remorsefulness of the offender**
- **Possibility of reform and social re-adaptation of the offender**
- **Any other factor that the court considers relevant**

7. Together with the above, I have also considered that sentencing is at the trial court's discretion and that the above principles are only advisory; as well as the objectives and purpose of sentencing as stated above; being

- **Retribution** – to punish the offender for his/her criminal conduct in a just manner.
- **Deterrence** – to enable the offender from committing similar offence subsequently as well as to discourage other people from committing similar offences.
- **Rehabilitation** – to enable the offender reform from his criminal disposition and become a law abiding person.
- **Restorative justice** – to address the needs arising from the criminal conduct such as loss and damage and to promote a sense of responsibility through the offender contribution towards meeting the victim's needs.
- **Community protection** by incapacitating the offender.
- **Denunciation** – to communicate to the community's condemnation of the Criminal conduct.

8. I have taken into account the six years the accused has been in custody as well as the circumstances under which the offence was committed, without no provocation at all from the deceased who was the accused's wife as well as the mitigating factors.

9. For the reasons set out above, **I sentence the accused person to serve three years imprisonment from the date of this ruling.**

Orders accordingly.

Delivered, Signed and Dated electronically at Kerugoya this 1st day of October, 2020

J.N. MULWA

HIGH COURT JUDGE.

PARTIES:

Munene Chege & Co. Advocates.

Ms. Odera, State Prosecutor, Nakuru.