

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HIGH COURT CRIMINAL CASE NO. 200 OF 2017

FORMERLY HCCRC 28 OF 2016

REPUBLIC..... PROSECUTION

-VERSUS-

MWANZIA MUSEMBIACCUSED

RULING ON SENTENCE

Mwanzia Musembi the accused was charged and convicted of murder contrary to section 203 as read with section 204 of the Penal Code. There were no records from the prosecution on the accused's past behavior. In mitigation he was said to be a family man with seven (7) children. He pleaded for leniency from the court.

A pre-sentencing report presented to court shows that the deceased's mother is still very bitter at what the accused did to her daughter. The accused and deceased had been married for 20 years.

What the accused did to his wife of twenty (20) years with several children is unthinkable. There was no man in their house that night as alleged by him.

The children of the marriage are with the deceased's mother and are school going.

Releasing the accused on a non-custodial sentence at this moment would be disastrous. The court has not been told what the children's reaction to the happenings is. It is a painful experience for the children and this cannot be taken lightly.

I have however taken note of his mitigation, and the circumstances of the offence. I have also noted that the accused has been in prison custody since 12th July 2016 which is four (4) years and four (4) months which I am taking into account.

The accused is hereby sentenced to serve eight (8) years imprisonment.

Right of appeal explained.

Orders accordingly.

Delivered, signed & dated this 10th day of November 2020, in open court at Makueni.

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H. I. Ong'udi

Judge