



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO 7 OF 2017**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**HELLEN WAMBUI SINTEIYA.....ACCUSED**

**JUDGEMENT ON SENTENCE**

1. The issue before me is to assess and pass the appropriate sentence in the circumstances of this case. This follows the conviction of the accused on a charge of murder contrary to section 203 as read with section 204 of the Penal Code (Cap 63) Laws of Kenya.
2. In assessing the appropriate sentence, the court is required to take into account the aggravating and mitigating circumstances. The aggravating circumstances include the following. The life of a middle aged person has been lost. A deadly and lethal weapon was used namely a shot gun. In the course of inflicting the fatal shot, the accused also fired another shot which passed through the bed mattress. Additionally, the deceased was a boyfriend to the accused for a long time.
3. Apart from the foregoing aggravating factors, there are mitigating factors. These mitigating factors include the following. The accused is a first offender and is a young person aged 33 years, according to the report of the probation officer (Mr. K. A. Bett). The said report has also found the following. The accused is also a mother of two children aged 6 and 15 years. The 15-year-old child has a mental condition which has forced the child to attend a special school at Rongai, while the second child is in class one.
4. The probation officer also interviewed family members. They are sorry about the offence and pleaded that the accused be sentenced to a lenient sentence. The family pointed out that the accused is the sole bread winner to her only sister and her two children.
5. Furthermore, the business community talked well of the accused. And they are not opposed to her being sentenced to a non-custodial sentence. The local governmental administration is also in support of a non-custodial sentence.
6. The family of the deceased who have since relocated to India said that the decision as regards sentence is a matter for the court to decide.
7. Furthermore, according to the said report the accused has health challenges and is under medication. In this regard, the court ordered the accused to be examined. Dr. Misoi S.K. of Narok county referral hospital examined the accused and prepared a medical report. According to his report the accused is suffering from peptic ulcer disease. He also found the kidney functions of the accused to be normal. The doctor then advised the accused to avoid taking beans and sukumawiki (kales).
8. I have considered the foregoing aggravating and mitigating factors. I have also considered the probation officer's report and the medical report of Dr. Misoi S. K. A. After doing so I have come to the conclusion that the sentence of a death is not appropriate. This is clear from the attitude of the business community and the local governmental administration, who have spoken well of the accused. It is also for the same reason I also find that a life sentence is also not merited. However, I find that a custodial sentence is called for in view of the usage of a lethal weapon as a result of which a life was lost.
9. The upshot of the above considerations is that I find that a sentence of twenty years' imprisonment is appropriate which I hereby impose.

**Judgement dated, signed and delivered at Narok in open court this 12<sup>th</sup> day of March, 2019 in the presence of Mr. Omwega for the state and Mr. Onduso for the accused.**

**J. M. Bwonwonga**

**Judge**

**12/3/2019**