

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CRIMINAL CASE NO. 22 OF 2017

REPUBLICPROSECUTOR

VERSUS

ISAAC KIRUIACCUSED

JUDGEMENT ON SENTENCE

1. The issue before me is one of the appropriate sentence to be imposed upon the accused, following his conviction for murder on 19/6/2017.
2. In assessing the appropriate sentence, the court is required to take into account both the aggravating and mitigating factors.
3. The aggravating factors are as follows. A life has been lost of a mother of two school going children. The deceased died of chemical poisoning and gastritis in the body with a large bruise at the back of the head due to blunt trauma force. According to the evidence of Dr. Titus Ngulungu (PW 2), the chemical pesticide which caused the death of the deceased was administered orally. It was his evidence that the injuries at the back of the head of the deceased suggested forced ingestion. It is clear that the deceased died following painful injuries arising out of the poisoning and the trauma injury. This is the most serious aggravating circumstance. Furthermore, the deceased and the accused were living together as husband and wife in what is not popularly known as “*come and we stay together.*” I find this to be another aggravating factor.
4. The mitigating factors are as follows. The accused is a first offender. The findings of the probation officer are as follows. He is a young man aged 30 years old. He supports his widowed mother and nine siblings. He is also remorseful. The family of the deceased are in an on-going reconciliation process with the family of the deceased. As part of that reconciliation the family of the accused have made a down payment of Kshs.10,000/= being part of the school fees of the children of the deceased. They also had agreed that the total sum of school fees is shs.50,000/=. According to the County Probation officer, the family of the accused has promised to pay the difference of Shs.40,000/=
5. Furthermore, the report of the probation officer shows that the clan elders of the family of the accused intends to meet the family of the deceased to meet to discuss on the mode of compensation.
6. I have taken all the above matters into account. I find that the accused is a young man aged 30 years. I also find that the murder of the deceased arose out of domestic differences. I further find that the murder of the deceased was brutal and painful. In view of the on-going reconciliation process, I find that this is not a case that warrants the imposition of a death penalty. I further find that it is also not a case that warrants the imposition of a term of life imprisonment.
8. The upshot of the foregoing is that a sentence of twenty-five years’ imprisonment which I hereby impose upon the accused. This is a sentence which now he has to serve.

Judgement signed, dated and delivered in open court at Narok this 9th day of October, 2019 in the presence of Mr. Mwangi for the state and Mr. Kilele for the accused.

J. M. Bwonwonga

Judge

9/10/2019