



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. 49 OF 2019

NORMAN WACHIRA NGOBIA.....PETITIONER

VERSUS

DIRECTOR OF PUBLIC PROSECUTION.....RESPONDENT

06/11/2019

Before Hon. Justice E. Ogola

Court Assistant Kaunda

Mr. Fedha for DPP

Petitioner in person

Mr. Fedha:

ON 25.10.2004 the Petitioner had a domestic dispute with one of his two wives in Mpeketoni. That dispute was a provocation of the wife due to the presence of a co-wife. Issue was who among the two wives was to cut grass for the domestic animals.

The Petitioner took a knife and a piece of wood and attacked the deceased on stomach, head and neck causing injuries which led to death. The offence was committed during the day in full view of his children of tender age. A life was lost.

Petitioner is 80 years and has been in custody for 16 years. He is remorseful. Taking his age and remorsefulness and his sickness and his work as elder in prison I pray that the 16 years he has served in prison is enough and he may be released. That is all.

E. K. OGOLA

JUDGE

Petitioner:

I agree with the state submissions. I was arrested when I was 60 years. Now I am almost 80. I have reformed. My family is in Court and they are willing to accept me. I pray that I be released.

E. K. OGOLA

JUDGE

Court:

I have carefully considered the submissions of both parties. The Petitioner is 80 years old. He is also sickly. He was involved in a domestic brawl which unfortunately led to the death of his wife. I am satisfied that he is remorseful. At his age he is not a threat to society.

Accordingly, I now set aside the death sentence imposed on the Petitioner and substitute therefore term of fifteen (15) years. Having served more than 15 years the Petitioner is hereby released unless lawfully held.

E. K. OGOLA

JUDGE

06/11/2019