



**REPUBLIC OF KENYA**

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

**PETITION NO. 32 OF 2018**

**PETER MUGAMBI.....PETITIONER**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**R U L I N G**

1. **PETER MUGAMBI (“the petitioner”)** was charged with the offence of murder contrary to *section 203 as read with section 204 of the Penal Code*. It was alleged that on 22/3/2011 at Kirindura Sub-location Ntunene Location Igembe District within Eastern province, the petitioner murdered **Ibrahim Mutembei Kubai**. After trial, the petitioner was found guilty, convicted and sentenced to suffer death on 3/7/2014.

2. The petitioner appealed to the Court of Appeal but his appeal was dismissed and the death sentence upheld.

3. In light of the Supreme Court’s decision in **Francis Karioko Muruatetu & Another –vs- Republic [2017] eKLR**, the petitioner has applied for re-sentencing. He submitted that he was aged 32 years at the time of his arrest and is now 41 years. That he is a father of two (2) children and is remorseful, the commission of the offence was misguided and that he is now rehabilitated. In attestation thereto, he attached Certificates of rehabilitation courses in biblical studies.

4. I have considered the foregoing. The case the petitioner faced was that the applicant worked with the deceased at a Miraa farm belonging to one **Joseph Gitonga Kubai**. The petitioner threatened the deceased with death before the deceased disappeared for 3 days only his decomposing body to be found 20 metres from the sleeping quarters of both the accused and deceased. The petitioner confessed to **Ntuanina Karimi** that he had assaulted the deceased on the 18/3/2011.

5. I have considered the principles of sentencing set out in the **Muruatetu Case** as well as the **Kenya Judiciary Principles of Sentencing**. I have also considered the mitigation given by the petitioner; that he is a first offender, he has been in custody for over 8 years, that he is remorseful and the recommendation by the Prison Authorities. I have also considered that a life was lost at the hands of the petitioner for no reason and the circumstances attendant thereto.

6. Taking into account the foregoing, I set aside the death sentence and sentence the petitioner to 25 years imprisonment. The sentence is to run from 3/7/2014.

**DATED** and **DELIVERED** at Meru this 14<sup>th</sup> day of November, 2019.

**A. MABEYA**

**JUDGE**