

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MAKUENI

HCCR NO. 61 OF 2017

FORMERLY MACHAKOS HCCRC. NO. 64 OF 2011

REPUBLIC.....PROSECUTION

-VERSUS-

KN.....ACCUSED

RULING ON SENTENCE

1. The accused person was initially charged with the offence of murdering **Solomon Kasee Ndunge** contrary to section 203 as read with section 204 of the Penal code on 15th October, 2011. The charge was reduced to manslaughter contrary to section 202 as read with section 205 of the Penal Code after a plea bargain agreement.

2. Upon conviction and after mitigation, this court called for a pre-sentence and a mental re-assessment report which were filed on 11th July, 2019 and 7th November, 2019 respectively. The probation officer's report shows that the accused has three (3) children who have not seen her since her incarceration in 2011. None of the family members has visited her in prison for reasons best known to them.

3. It has also been revealed that the accused has occasionally had some mental breakdowns hence the request for a mental re-assessment report. The report which was filed on 7th November, 2019 shows that the accused is compliant on the medication prescribed to her and she has responded well to the treatment.

The doctor did a mental state examination of the accused and found her to be very responsive.

4. There is nothing to show that when the accused committed this offence she was suffering from a mental illness. Upon being charged, she was mentally assessed by the doctor on 20th January, 2012 and the doctor found her fit to plead.

5. She has been in prison custody since her time of arrest on 15th October, 2011 which is exactly eight (8) years plus one (1) month. In his report the county probation officer indicated his willingness to supervise the accused if given a non-custodial sentence. The county probation officer has confirmed to the court that there is an uncle of the accused who is willing to accommodate her.

6. After considering all the circumstances of this case, I find that the accused has suffered enough punishment and needs to resettle back into family and community. She must also have someone to ensure she does not relapse on her medication.

7. I therefore place her on probation for two (2) years under the supervision of the county probation officer. He has to ensure that arrangements are made for the accused to meet her children. The conditions for release on probation are clearly spelt out to the accused.

Orders accordingly.

Delivered, Signed & Dated this 12th day of November 2019, in Open Court at Makueni.

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Hon. H. I. Ong'udi

Judge