

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MACHAKOS

CRIMINAL CASE NO. 21 OF 2002

(Coram: Odunga, J)

REPUBLIC.....PROSECUTOR

VERSUS

BENSON MATHEKA JUMA.....ACCUSED

SENTENCE

1. In my ruling in this matter made on 28th October, 2019, I expressed myself, *inter alia*, as hereunder:

“In this case, the community and the accused’s family as well as the prison authorities are agreed that it is no longer in their interest to keep the accused incarcerated and that the accused may serve the society better outside the prison than inside. However, it is clear that there are some unresolved issues within the accused’s own family that needs to be addressed. These are the issues which are akin to what therapists refer to as “unfinished business” which describe the emotions and memories surrounding past experiences that a person has avoided or repressed, feelings around an event which are not fully processed at the time, often because they are too overwhelming or traumatic. To mete out a sentence without addressing such unfinished business may work injustice to the family of the accused. Accordingly, it is only fair that the said business be addressed and resolved before an appropriate sentence is meted out. In the premises I direct that the Probation Officer preferably in collaboration with the prison church authorities take steps to counsel and reconcile the accused with his family particularly with the wife as regards the changed circumstances in his family composition. Accordingly, I defer the sentencing pending the said process and the filing of a report therefor.”

2. Pursuant to the said decision, the Probation Officer took the steps to counsel and reconcile the accused with his family regarding the changed circumstances in his family composition and prepared a report dated 9th December, 2019. In the said report the said officer disclosed that after holding several sessions with the accused and his family, she concluded that the said sessions were successful and bore fruits in terms of familiarization, expressing frustrations, guilt, remorse and forgiveness, building support system and coming up with the way forward. The said report concluded that the accused could be considered for a second chance and continuous counselling and guidance as he starts facing the issues practically.

3. Having considered the said developments, the accused’s record while in prison and the time already spent in custody, I hereby place the accused on probation for a period of two years. During that time as suggested by the Probation Officer, he is expected to undergo continuous counselling and guidance. He is reminded that he must strictly adhere to the instructions given to him by the Probation Officer and that in the event that he fails to do so, he will be liable to serve the remaining term in prison.

4. It is so ordered.

Judgement read, signed and delivered in open Court at Machakos this 13th December, 2019.

G V ODUNGA

JUDGE

In the presence of:

The Accused in person

Miss Mogoi for the State

CA

Geoffrey