



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

CRIMINAL DIVISION

CRIMINAL CASE NO. 3 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

JOHN MWANGI CHEGE.....ACCUSED

SENTENCE

1. The convict **JOHN MWANGI CHEGE** was on 10/4/2018 convicted of the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. What the court is now called upon is to determine the most appropriate, adequate and just sentence under the provisions of **Section 204** of the **Penal Code**.

2. In compliance with the Judiciary Sentencing Policy Guidelines the court called for Pre-sentence Report inclusive of the Victim Impact Statement under the provisions of Victims Protection Act which was presented to court from which it was stated that the convict dropped out of school in standard six (6) in 1996 due to financial constraints before being employed in 1999 as a waiter in Eastleigh before moving to Kayole where he established his butchery which was later affected by post election violence in Kenya of 2007/2008. He was thereafter employed as a *matatu* tout plying Route 17 as at the time of the commission of the offence. He was married with one child but upon his arrest the wife took off with their child.

3. It was further stated that the accused supported his family financially and while denying having committed the offence the convict sought for a lenient sentence to enable him provide for his daughter and his elderly and ailing parents.

4. On the Victim Impact Statement, it was stated that the deceased was aged 33 years at the time of his death having dropped out of school, was selling charcoal at Kayole and had plans of introducing his fiancé to the family. It was stated that the deceased was loved by many and the family was still bitter and yet to heal. They sought for a punitive sentence.

5. The objectives of sentencing as per the Judiciary of Kenya Sentencing Policy Guidelines number 4.1 are as follows:-

1. **Retribution: to punish the offender for his/her criminal conduct in a just manner.**
2. **Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.**
3. **Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law abiding person.**
4. **Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.**
5. **Community protection: to protect the community by incapacitating the offender.**
6. **Denunciation: to communicate the community's condemnation of the criminal conduct.**

6. Whereas the life of the deceased was lost due to unjustifiable acts on the part of the accused person, whereas the accused is aged 38 years and still has the potential of being a good citizen of the Republic of Kenya, I have taken into account the manner in which the offence was committed and the reason therefore and has come to the conclusion that the accused is wholly suited for rehabilitation while in custody and I have further taken into account the fact that the accused has been in custody for a period of over four (4) years from 9/1/2014 when he first appeared in court and have come to the conclusion that an imprisonment sentence of a period of fifteen (15) years is adequate, just and

appropriate in the circumstances herein and it is so ordered.

7. The accused has a right of appeal on both conviction and sentence while the State has a right of appeal on sentence.

**DATED, DELIVERED and SIGNED at Nairobi this 17<sup>th</sup> day of May, 2018.**

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**J. WAKIAGA**

**JUDGE**

***In the presence of:-***

Miss Wegulu for the State

No appearance by Wakaba for the accused

Accused present

Court Assistant – Paul/Grace