

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CRIMINAL CASE NO. 25 OF 2017

BETWEEN

REPUBLIC.....PROSECUTOR

AND

ANDREW OREU CHEMAYAI alias ROTICH.....ACCUSED

RULING ON SENTENCE

I have convicted the accused, ANDREW OREU CHEMAYAI alias ROTICH for the offence of murder contrary to section 203 as read with section 204 of the Penal Code. I am alive to the fact that following the decision of the Supreme Court in **Francis Muruatetu & Another v. Republic [2018] eKLR**, the death sentence is no longer mandatory upon conviction for the offence of murder.

The fact of the case disclose that the accused's act of assaulting the deceased was deliberate and unprovoked. I take into account what was stated in mitigation that the accused was a first offender, he is a young person and that he prays for leniency and he is remorseful.

I have taken into account the sentencing imposed in cases of murder and robbery with violence (see **Wycliffe Wangusi Mafura v.R [2018] eKLR, Paul Ouma Otieno & Another v. R [2018] eKLR** which indicate the level of sentence to between 15 – 25 years. Given the deliberate nature of the accused's act, I hereby sentence ANDREW OREU CHEMAYAI to twenty (20) years imprisonment. Right of appeal explained.

Ruling read and delivered in open Court this 4th October 2018.

D.S Majanja

Judge

Mr. Otieno, Senior Prosecution Counsel, instructed by Office of Director of Prosecutions

Mr. Okenye, Advocate for the Accused