

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 11 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

MARY NJOKI NG'ANG'A.....ACCUSED

RULING ON SENTENCE

On 27th September 2018 the accused Mary Njoki Ng'ang'a was found guilty and convicted for the murder of James Ng'ang'a Ritho contrary to Section 203 as read with Section 204 of the Penal Code. The murder was committed on the night of 14th and 15th January 2015 at Marenga Road Kangemi in Nairobi. After the conviction of the accused person, learned counsel for the prosecution told the court that the accused did not have previous criminal records. Counsel asked the court to treat the accused as a first offender.

In mitigation by Mrs. Kinyori, learned counsel for the accused, this court was told that the accused was greatly remorseful and seeks pardon from the court; that the accused is a mother of two children and grandmother of one child who depend on her for moral support; that the accused used to attend court without fail during the pendency of this trial and that she has discussed this matter with her late husband's family who have forgiven her. It was mitigated that before the accused was released on bond, she learned knitting, crocheting and detergent making while in custody and attended development courses; that she was also an active member of "Safari ya Mfungwa" which looks at conditions and needs of women in custody; that she holds a diploma in Theology and has also acquired certificates; that she participated in religious activities while in custody and was made the leader of protestant church in remand. Counsel further submitted that the accused lost her mother while this matter was going on and that she takes care of two nephews whose mother has died and children of her hailing brother. Counsel told the court that the accused is pleading for non-custodial sentence.

This court also called for a pre-sentencing report and victim impact statement from the probation office. The same was filed in court on 31st October 2018. It is detailed. I have carefully read it. In it the accused who was interviewed at length still denies taking part in her late husband's death and states that she lived peacefully with her husband. Her family is supportive of her and speak well of her. However, her late husband's family has a different view of the matter. They still have not come to terms with the death of the deceased. From the victim impact statement, it seems not true the assertion that the family has forgiven the accused.

I did explain in detail the gruesome manner in which James Ng'ang'a Ritho was killed and his body suffered indignity in the way it was stuffed inside gunny bags. I have considered that the accused does not have previous criminal records. I have considered her mitigation through her defense counsel. I find her mitigation that she is very remorseful contradictory to her statement during the interview by the probation officer where she maintained her denial that she has nothing to do with the death of her later husband. In other words, in her interview as reported by the probation officer she negates her statement in her mitigation that she was remorseful. Having taken into account all the circumstances surrounding this case, the mitigation and the report containing the victim impact statement, it is my considered view that justice in this case will be served by sentencing the accused Mary Njoki Ng'ang'a, which I hereby do, to death this being the optimum penalty allowed by the law in respect of the crime of murder under Section 204 of the Penal Code. She shall suffer death in the manner authorized by the law. She is hereby informed of her right of appeal within 14 days from today's date. Orders shall issue accordingly.

Delivered, signed and dated this 8th day of November 2018.

S. N. Mutuku

Judge