

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

CRIMINAL CASE NO. 28 OF 2015

REPUBLIC.....PROSECUTOR

Versus

CATHERINE KARIMI NYAGA.....ACCUSED

SENTENCE

The offence committed by the accused person is categorized in our penal code as one of the most serious offences like robbery with violence and treason attracting the death penalty unlike robbery with violence, in the charge of murder contrary to section 203 life of a human who died as a result of unlawful acts of the offender is one of the key elements proven by the state before conviction can ensue. The legislation in enacting the provisions of section 203 considered murder such a serious offence that in their approach whoever causes death of another person and the offences falls under section 203 the sentence to be imposed is murder as prescribed in section 204 of the Penal Code. In this case the accused killed Peter Marona the deceased who was her husband. The conduct of the accused has destroyed the deceased family as demonstrated by Elizabeth Nduta Marona who gave a victim impact statement on behalf of the family. According to Elizabeth Nduta a sister to the deceased the death of Peter Marona has traumatized the family more specifically their mother who depended on her son the deceased for upkeep and support. The conduct of this nature cannot be cordoned by courts while imposing sentences for the offence like the one accused was found guilty and convicted by this court. During the sentencing hearings this court called for a presentence report from the probation officer to enable this court understand the profile of the accused and her background.

As I embark in this solemn process indeed the report confirms critical issues about the accused and the community where she was brought up. Mr. Nyaata counsel of the accused submitted interalia that the accused is remorseful but blessed with one child who needs mother's care and support. Mr. Nyaata sought leniency from this court when exercising discretion on sentencing. Mr. Akula the senior prosecution counsel submitted that the state has no previous record of the accused but in sentencing he urged this court to be guided by the provisions of the law provided for under section 204 of the Penal Code.

I have heard counsel for the accused and also counsel for the state. The probation officer report has also been taken into account. In this case the specified sentence under section 204 of the Penal Code cannot be departed from by imposing any alternative sentence. In the circumstances I am of the holding that the accused be and is hereby sentenced to death as provided for under section 204 of the Penal Code. 14 days right of appeal explained to the accused.

It is so ordered.

Dated, delivered in open court at Kajiado on 10th day of February, 2017.

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R. NYAKUNDI

JUDGE

Representation:

Accused - present

Mr. Akula Senior Prosecution Counsel – present

Mr. Nyaata for the accused - present

Mr. Mateli Court Assistant - present