



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**HIGH COURT CRIMINAL CASE NO 114 OF 2014**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**GEORGE GICHEHA GATHOGA.....ACCUSED**

**SENTENCE**

1. The accused **GEORGE GICHEHA GATHOGA** was convicted of the offence of murder of **SALOME WAMBUI KARIUKI** on 30/11/2014 at Kiwanda village Thigio location in Limuru sub-county of Kiambu county contrary to **Section 202** as read with **Section 204** of the Penal code.
2. In Mitigation the accused through his Advocate submitted that he was remorseful and regretted the very tragic incidence leading to the death of the deceased who was his close relative. It was submitted that he was a young man aged 33 years who ought to be given another opportunity to reconstruct his life. It was stated further that whereas the pre-sentence report was against him as the community did not want him back, time was a great healer.
3. On behalf of the prosecution it was submitted that whereas the accused was a first offender the community felt that he was not a good person who if released was likely to commit another offence.
4. The court ordered for pre-sentencing report in which on victim impact statement it was indicated that the whole family of the deceased was still traumatized by the incidence where the accused mutilated the body of the deceased as their two year old daughter watched. The husband of the deceased who was the accused uncle stated that he will never forgive the offender for ending his wife's life leaving him with four young children to take care of.
5. On the community attitude toward the accused, it was stated that the mother and the father of the accused indicated that they did not want to hear anything to do with the accused who was not welcome back to their home. The community described the accused as a nuisance who occasionally stole from them and should therefore be kept away.
6. Section 204 of the Penal Code provides that:-

***“Any person convicted of murder shall be sentenced to death.”***

Whereas this court has stated elsewhere that death is not the only sentence available upon conviction for the offence of murder, where there are no mitigating circumstances to enable the court extend the mercy to a convict then the courts hands are tied and ought to then pass the death sentence.

7. In this case the accused without any provocation on the part of the deceased descended upon her with a panga allegedly without any founded reason on the belief that she had bewitched his child. Having taken into account the society attitude against the accused I am of the considered view and hold that the circumstances of this case call for social retribution.

8. From the pre-sentencing report, the circumstances under which the accused committed the offence and the nature of injuries inflicted upon the deceased as stated in the judgment, ***I hereby sentence the accused to suffer death as provided for in law.***

9. The Accused has 14 days Right of Appeal both on conviction and sentence.

DATED, SIGNED and DELIVERED at Nairobi this **10<sup>th</sup>** day of **May**, 2017.

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**J. WAKIAGA**

**JUDGE**

**In the presence of:-**

*Miss Nduati for the State*

*Mrs. Nyamongo for Mr. Wamwayi for the Accused*

*Accused present*

*Tabitha court clerk*