



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NANYUKI

CRIMINAL NO. 15 OF 2016

REPUBLIC STATE

VERSUS

J N GSUBJECT

RULING ON SENTENCE

I have considered the mitigations made by Learned Counsel Mr. Thuku. I have also considered that you are first offender

1. Let me begin by addressing you **J N G**. You are 16 years old. When you committed the terrible crime against Hadijah Wajera Jullo deceased you were only 15 years old. The offence of murder that you committed shows that you do not value life. It is clear that even before the confrontation between yourself and the late Hadijah you were armed with a knife. The motive of killing the defenceless Hadijah to date is unknown.
2. In killing Hadijah a mother of 6 children you denied those children her care and protection. The deceased on the day you killed her was going about her normal day, working hard to ensure that she earned some money to enable her put food on the table for herself and her 6 children. You will recall that after you killed her the only things found in her possession were some scrap metal that she used to sell so as to provide food for her children, and beans, cooking oil and spaghetti.
3. It is clear to me that you are a danger to society. Your callous act has resulted in the death of an innocent hard working woman. The probation report dated 21st and 28th July 2016 also reveal the character that you are. The school Deputy Head teacher of the school you attended, [Particulars Withheld] Boarding School, said that you had a deviant behavior and that you were accused of stealing at your school.
4. The purpose of sentencing was stated in the case **REPUBLIC V JAGAN AND ANOTHER [2001] KLR** to be:

“The purpose of a sentence is usually to disapprove or denounce unlawful conduct as a deterrent to deter the offender from committing he offence, to separate offenders from society if necessary to assist in rehabilitation of offenders, and in retribution by providing for reparation for harm done to victims in particular to society in general. It is also seen as promoting a source of responsibility in offenders”.

That principle will guide me as I consider your sentence.

5. I am however aware of the provisions of **Section 191 (1) of the Children Act** which provide the sentence that should be meted to a child such as you. In particular **Section 191 (1) (e)** provides that where a child is above 10 years and under 15 years of age a court may order such a child to be sent to rehabilitation school suitable for his needs. J you were 15 years when you committed the offence. You are however now 16 years old it follows that this court need not follow the provisions of Section 191 (1) (e) of the Children's Act. Although the sentence for a conviction on murder is death such a sentence cannot be passed against you. It is forbidden both by the **Children's Act and the Section 25 of the Penal Code.**

6. I am of the view that you need to be rehabilitated. It is for that reason that I shall order that you to be detained during the H. E. President's pleasure.

7. In so sentencing you I do make a recommendation that you should be detained for no less than 10 years. You need to learn to respect and value life.

8. I therefore hereby order J N G to be detained during the H.E. the President's pleasure as provided Section 25 (2) of the Penal Code. He shall be detained at such place and under such conditions as H. E. President may direct.

Dated and Delivered at Nanyuki this 7th JUNE 2017

MARY KASANGO

JUDGE

Coram

Before Justice Mary Kasango

Court Assistant: Njue/Mariastella

Accused: J N G

For accused.....

For state:

Language

COURT

Ruling on sentence delivered in open court

MARY KASANGO

JUDGE