

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO. 30 OF 2012

LESIT, J.

REPUBLIC.....PROSECUTION

VERSUS

ERIC MUTUA DANIEL.....ACCUSED

RULING ON SENTENCE

1. The accused person has been convicted of murder contrary to **section 203** of the **Penal Code**. The sentence for the offence of murder is provided under **Section 204** of the **Penal Code** which provides:

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

2. Ms. Onunga, learned Prosecution counsel, urged the court to treat the accused as a first offender. I am therefore treating the accused as a first offender.

3. Mr. Were for the accused person urged that the accused was remorseful for the offence and that he was pleading with the court to be lenient to him. Mr. Were urged the court to consider emerging jurisprudence where the court was moving towards correction of offenders rather than punishment. Counsel did not provide any precedent to demonstrate the alleged transformative jurisprudence. I am not aware of such case as the only ones I know of have been declared erroneous due to being *per incuriam* by the Court of Appeal.

4. I have considered the circumstances of the case. The accused strangled the deceased, a young woman at the prime of her life snuffing her life brutally and without any apparent cause. That was not just senseless, but a worrying trend of violence against women in the society called Kenya. The accused lured the deceased to a lodging place to execute that heinous attack on her. I do not think that he would deserve any leniency even if the law allowed it.

5. I have considered that the accused was arraigned in court for this offence on 19th April, 2012. I have considered that he has been in custody for a period of 4 years and 6 months during the pendency of his trial.

6. I have borne all these factors in mind before passing sentence. I have also considered **Section 204** of the **Penal Code** which provides the sentence for the offence of murder contrary to **section 203** of the **Penal Code**. It is a mandatory sentence for which the court has no discretion.

7. Having considered all these factors and the law, I sentence the accused to death as by law provided.

8. The accused has a right to appeal against both the conviction and the sentence within 14 days from the date of this sentence.

DATED AT NAIROBI THIS 5TH DAY OF OCTOBER, 2016.

LESIT, J.

JUDGE