

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO. 49 OF 2014

LESIT, J.

REPUBLIC.....PROSECUTION

VERSUS

JUDITH KANANA.....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. Wafula, learned Prosecution counsel, urged the court to treat the accused as a first offender as the State was unable to get her previous record if any. I am therefore treating the accused as a first offender.

3. Mr. Oduor for the accused person urged that the accused was remorseful for the offence and that she had lost her only source of income. Counsel urged that the accused had undergone some theology training while in custody. Mr. Oduor urged the court to create precedent by giving a non-custodial sentence even though the law does not provide for it.

4. I have considered the circumstances of the case. The accused strangled the deceased, an innocent child of four years, snuffing his life brutally and without course on deceased part.

5. I have considered that the accused was arraigned in court for this offence on 19th June, 2014. I have considered that she has been in custody for a period of 2 years and 3 months during the pendency of her 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