

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NANYUKI**

**CRIMINAL CASE NO 7 OF 2016**

**REPUBLIC.....**

**PROSECUTOR**

**VERSUS**

**ANTHONY KIPLANGAT..... ACCUSED**

**RULING ON SENTENCE**

- 1. ANTHONY KIPLANGAT** is charged with *murder* contrary to **Sections 203** and **204** of the **Penal Code**.  
The particulars were that on the 28<sup>th</sup> day of February 2016 at Muthaiga Estate in Nanyuki Town, Laikipia County within the Republic of Kenya murdered Priscilla Waithira Ngugi. Vide this court's judgement dated 31/10/25, he was found guilty and convicted of the offence.
- 2.** The matter is before court for sentencing.

**3.** The court has a wide discretion on the question of sentence. However, the said discretion cannot be used by the Court of law in a fanciful and whimsical manner. Every case has to be decided on the consideration of its circumstances including the gravity of offence, victim impact, the need to deter crime and the rehabilitation of an offender among others. The discretion does not open a *carte blanche* for a whimsical decision on the appropriate sentence. In *The Nature of the Judicial Process* - Yale University Press 1921 Ed page 144 Benjamin N. Cardozo puts it in the following words;

***“The judge even where he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to***

***‘the primordial necessity of order in the social life’ . . .”***

4. The question then that I have to grapple with at this stage is what would constitute an adequate, appropriate and just sentence in the circumstances of this case? In the case of **STATE OF MADHYA PRADESH v MEHTAAB CR. APPEAL NO. 290 OF 2015**, the Supreme Court of India held:

***“It is the duty of the court to award just sentence to a convict against whom charge is proved. While every mitigating or aggravating circumstances may be given due weight, mechanical reduction of sentence to the period already undergone cannot be appreciated. Sentence has to be fair not only to the accused but also to the victim and society. It is also the duty of the court to duly consider the aspect of rehabilitating the victim.”***

6. The objectives of sentencing as stated in **paragraph 4.1 of the Judiciary Sentencing Policy Guidelines** can be summarized as follows:

- a. To prevent the occurrence of crime;
- b. To punish the transgressor and the criminal;
- c. To rehabilitate the transgressor and the criminal;
- d. To compensate the victim;
- e. To deter the offender from committing any criminal acts in the future as well as other people from committing similar offences and
- f. To protect the community condemnation of the convict.

7. The importance of sentence was emphasized by the Supreme Court of India in the case of **ANTONY PAREIRA v STATE OF MAHARASHTRA (2 AIR 2012 SC 3802)** where it stated:

***“70. Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused on proof of crime. The***

***courts have evolved certain principles; twin objective of the sentencing policy is deterrence and correction. What sentence would meet the end of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.***

**8.** I have in addition considered the mitigation put forth by the accused through her advocate and the State's submission on sentence. His age is a relevant factor in the matrix.

**9.** I have carefully considered the nature of the offence, the manner of its execution, the conduct of the Accused even after the dastardly act. Life is the most precious thing that can be taken away from an individual. It is irreplaceable. Though the Accused is a 1<sup>st</sup> offender, his actions of trying to conceal the murder and to cover his tracks as he fled from the scene of crime, his absconding during trial after accessing bail, the sheer brutality that led to serious fractures on the deceased resulting to a painful

death and the absence of any evidence of provocation are aggravating factors.

**10.** In my view, a deterrent sentence is desirable. Balancing the scales of justice to achieve post humous justice for the deceased whose life was unnecessarily cut off at her prime, wiping away the tears of the deceased 's children and larger family and taking into account the accused's circumstances and affording him a chance in life,I decline to mete out the death sentence provided in law. Am however persuaded that a long custodial sentence is appropriate in the circumstances to act as a deterrence and give an opportunity for rehabilitation of the offender.

11. The Accused is to serve 35 years imprisonment.

Right of Appeal explained.

**Dated signed and delivered in open court this 2<sup>nd</sup> day of**

**December 2025**



**A.K. NDUNG'U**

**JUDGE**