

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL CASE NO. E012 OF 2024

REPUBLIC.....ODPP

-VERSUS-

PETER IRIA KAMAU.....ACCUSED

RULING ON SENTENCE

1. Peter Iria Kamau, was convicted for the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code which provide thus;

Any person who commits the felony of manslaughter is liable to imprisonment for life.

2. No previous records were availed by the State/ODPP hence the Accused is treated as a first offender.

3. The State through learned prosecution counsel Ms. Mumbi emphasized the fact of the secondary victims having been traumatized and urged that the community be protected from the Accused. She called for a custodial sentence.

4. In mitigation, the Accused through learned counsel Mr. George Mugo expresses remorse. He urges that he has learnt a lesson. He is a young man with a bright future ahead. That he has committed to restrain himself against his parents and siblings. He pleads for leniency.

5. Sentencing in a case of manslaughter is discretionary. The punishment the court settles for depends on the level of culpability and circumstances in which the offence was committed. The court should also consider how remorseful the offender is.
6. The objective of sentencing ensures that a sentence meted out dissuades the community from such acts. Members of the community must frown from criminality. The offender on his part should be rehabilitated so as to be deterred from committing such an offence in future.
7. Of importance is for the court to ensure proportionality of the sentence considered to the offence committed (see **Omuse v Republic [2009] KECA 440 (KLR)**).
8. In **Murutetu & Another v Republic [2017] eKLR** the Supreme Court set down the mitigating factor thus;
 - (i) *Age of offender.*
 - (ii) *Being a first offender.*
 - (iii) *Whether the offender pleaded guilty.*
 - (iv) *Character and record of the offender.*
 - (v) *Commission of the offence in response to gender-based violence.*
 - (vi) *Remorsefulness of the offender.*
 - (vii) *The possibility of return and social re-adoption of the offender.*
 - (viii) *Any other factor that the court consider relevant.*

- 9.** A pre-sentence report in respect of the offender (Accused) aged 32 years old, indicate that he was a habitual drunkard who exhibited anger, aggression, intimidation and violent tendencies towards his family members and his relationship with the family was characterized with tension.
- 10.** The offender regrets his actions, is remorseful but he was apprehensive that going back home may reawaken the wrath and bitterness that the family members have against him.
- 11.** The deceased was a single mother of six (6) children. Her children, secondary victims who experienced immense emotional and psychological anguish are still grieving as well as the offender's siblings, as he killed his elder sister.
- 12.** His family generally is very bitter and strongly oppose his release.
- 13.** The community oppose his release to the society as he is considered a murderer, and a habitual thief. The area administration is concerned with his safety incase of being released back to the society.
- 14.** It is the recommendation of the Probation Officer that the family has not healed and considering views of the community, the offender is not suitable for non-custodial measures.
- 15.** Taking all these factors into consideration, it is apparent that the offender is a young man, a first offender but his character is wanting. He is unwanted by his own

family and the community at large. Rehabilitating such an offender would call for addressing his criminogenic needs. Violent behavior clearly means the offender herein has complex needs calling for effective rehabilitation. He should be incapacitated in prison to benefit from long term behavior change which will be the focus.

16. Section 333(2) of the Criminal Procedure Code provides thus;

(2) Subject to the provisions of section 38 of the Penal Code (Cap 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code.

Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody

17. Taking that provision of law into consideration I hereby sentence the offender to serve twenty (20) years imprisonment with effect from 18th November, 2024, being the date of arrest.

18. It is so ordered.

Dated, signed and delivered virtually this 16th day of March, 2026.

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L.N. MUTENDE
JUDGE