

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAPENGURIA.**

**CRIMINAL CASE NO. 4 OF 2023**

**REPUBLIC** .....

**PROSECUTOR**

**- V E R S U S -**

**SALOME CHEBOR ALIMAA** .....

**ACCUSED**

**RULING ON SENTENCE**

**Salome Chebor** was convicted for the offence of Murder contrary to section 203 as read with section 204 of the Penal Code. She murdered her husband, **Edy Esau Otipa**. The accused is now before this court for sentence.

The Prosecution did not have the accused's previous records and therefore treated her as a first offender.

The defence Counsel Mr. Lokeer holding brief for Mr. Ndinyo submitted that the accused is remorseful, readily takes

responsibility of the offence which she regrets; that she is thirty-

seven (37) years old, with a baby aged eight months and that she has other children to care for; that she is HIV positive and prays for a lenient sentence. The court was urged to exercise its discretion with Mercy.

Sentencing is an exercise of the court's discretion guided by the Constitution and the relevant laws and the 2016 Judiciary of Kenya sentencing Policy guidelines. Despite the importance of the said guidelines, sentencing remains an exercise of judicial discretion as was expressed by the Supreme Court in **Francis Karioko Muruatetu & Another -V- Republic (2017) eKLR**.

The court stated **“(72) we wish to make it very clear that these guidelines in no way replace judicial discretion.**

**They are advisory and not mandatory. They are geared to promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process”.**

Page 15, paragraph 4.1 of the Sentencing Policy Guidelines provides for what the court should consider as follows: -

- (i) Retribution: to punish the offender for his/her criminal conduct in a just manner;
- (ii) Deterrence; to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences;
- (iii) Rehabilitation; to enable the offender reform from his/her criminal disposition and become a law-abiding person;
- (iv) Restorative justice; to address the needs arising from the criminal conduct such as loss and damages;
- (v) Community Protection; to police the community by incapacitating the offender.
- (vi) Denunciation; to communicate the community's condemnation of the criminal conduct.
- (vii) Reconciliation; to mend the relationship between the offender the victim and the community
- (viii) Reintegration; To facilitate the re-entry of the offender into the society.

In **Muruatetu's Case**, the Supreme Court also set down some mitigating factors that the court may consider while sentencing which are;

- (1) Age of the offender;
- (2) Being a first offender;
- (3) Whether the offender pleaded guilty;
- (4) Character and record of the offender;
- (5) Commission of the offence in response to gender-based violence;
- (6) Remorsefulness of the offender;
- (7) The possibility of reform and social re-adaptation of the offender;
- (8) Any other factor that the court considers relevant.

I have considered the mitigation put forth by the accused's Counsel that she is remorseful, readily takes responsibility for the offence for which she regrets; that she is HIV positive though no evidence was presented to court to support that allegation; The accused has also got a young baby whom she got when released on bond and others who were said to be with the deceased's siblings.

This court has also considered the presentence report which revealed that the deceased and Accused used to have frequent quarrels and she attributes the commission of the offence to

provocation by deceased but the probation officer attributed it to

influence of alcohol (changaa) which she also used to brew. The report also disclosed that the local Administrator (village elder) had received reports of child neglect by the accused. The accused cannot claim to be a responsible mother for her children.

The deceased's family are said to be still bitter about the loss; they lost a young man aged twenty-nine (29) years old, his love and companionship as a brother or son.

From the multiple injuries inflicted on the deceased and attempt to conceal the murder, the accused's actions were very intentional. This is a serious offence where a young life was lost through the senseless acts of the accused and the court will prefer a custodial sentence.

Before release on bond in April 2024, the Accused had been in remand for one year and I do factor that in the sentence and reduce it by one year. I sentence Accused to fourteen (14) years imprisonment.

Right of Appeal in fourteen (14) days

**Sentence delivered, dated and signed in open court at  
Kapenguria this 18<sup>th</sup> day of March, 2026.**

**R. WENDOH.**

**JUDGE**

**In the Presence of:-**

Accused- present

Mr. Lokeer holding brief for Mr. Ndinyo for accused.

M/s Koech for State/ Prosecution Counsel

Juma/ Hellen- Court Assistants