



REPUBLIC OF KENYA



**KENYA LAW**  
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**Bitok v Republic (Criminal Appeal 20 of 2022)  
[2023] KECA 717 (KLR) (9 June 2023) (Judgment)**

Neutral citation: [2023] KECA 717 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CRIMINAL APPEAL 20 OF 2022  
MSA MAKHANDIA, AK MURGOR & S OLE KANTAI, JJA  
JUNE 9, 2023**

**BETWEEN**

**AMOS KIBET BITOK ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An appeal from the Judgment of the High Court of Kenya at Nairobi  
(Lesiit, J.) dated 26th February, 2019 in HC. CR.C. No. 24 of 2016)*

**JUDGMENT**

1. The appellant Amos Kibet Bitok was charged in the Information with the offence of murder it being alleged in the particulars of the information that on March 9, 2016 at about 3 pm at Dandora Phase V Njiru District of Nairobi County he murdered Benedictor Jerobon. He was tried where the prosecution called 10 witnesses; he gave an unsworn statement and he was convicted by Lesiit, J (as she then was) in a Judgment delivered on November 8, 2018. In mitigation before sentence he stated that he was a 28 years old orphan; he had an 8 year old daughter taken care of by his grandmother; that he was a reformed casual labourer at the time of arrest who attended church and had grown spiritually. In a 7 page Ruling on sentence the trial Judge considered those mitigating factors and other factors on sentencing and sentenced the appellant to serve 30 years imprisonment.
2. When the appeal came up for hearing before us on May 3, 2023 Mr. Mwangale learned counsel for the appellant indicated that he was abandoning the appeal on conviction and he was only challenging the sentence. He submitted that we should interfere with sentence which according to him is harsh and excessive considering the circumstances of the case. He submitted that sentencing the appellant to 30 years imprisonment was equivalent to giving him a life sentence and urged that the appellant cooperated with investigators by presenting himself to police.



3. Miss Margaret Matiru, learned State Counsel for the Office of Director of Public Prosecutions opposed the appeal submitting that the sentence imposed was fair as the appellant was charged with an offence whose maximum penalty was a sentence of death.
4. We have considered the appeal which is on sentence only.
5. As we have seen the trial Judge considered the fact that the appellant was a first offender and considered mitigating factors put before the Court. The Judge also considered a Pre-Sentence Report filed by Probation Department and a Victim Impact Statement filed in the case. The probation report depicted the appellant as a dishonest person who had cheated that he was a father when he was not. He had been expelled from two secondary schools due to indiscipline forcing him to drop out of school. The report established that the appellant's community viewed him as a threat to security due to his past violent life and had pending cases in court. The community threatened to lynch him should he not be jailed. The Judge also considered that the victim's family were still in shock and had not recovered from the death of the deceased. She considered the guidelines on sentencing set out by the Supreme Court of Kenya in *Francis Karioko Muruatetu & Another v Republic* [2017] eKLR before imposing the sentence of 30 years imprisonment.
6. A perusal of the record depicts a gruesome murder. The appellant lured his girlfriend (the deceased) to his friend's house where he killed her by stabbing her repeatedly with a sharp knife. He then proceeded to send messages to her employer where he demanded money (which was sent to him) and he then sent the employer rude messages including telling her where to find the body of the deceased. He then fled to Mombasa and it was only when he found that he had been cornered by the police that he surrendered himself to police at Nyalı Police Station. He murdered his girlfriend taking away an innocent life and his conduct then and thereafter can only be described as bizarre. He deserved the sentence that was imposed as circumstances of the case could have led to a death sentence. The appeal has no merit and we accordingly dismiss it.

**DATED AND DELIVERED AT NAIROBI THIS 9<sup>TH</sup> DAY OF JUNE, 2023.**

**ASIKE-MAKHANDIA**

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**JUDGE OF APPEAL**

**A.K. MURGOR**

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**JUDGE OF APPEAL**

**S. OLE KANTAI**

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**JUDGE OF APPEAL**

*I certify that this is a true copy of the original.*

*Signed*

**DEPUTY REGISTRAR**

