



**Republic v Lodoto (Criminal Case 96 of 2017)
[2024] KEHC 697 (KLR) (31 January 2024) (Sentence)**

Neutral citation: [2024] KEHC 697 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 96 OF 2017
EM MURIITHI, J
JANUARY 31, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

MBOI LOBEYOK LODOTO ACCUSED

SENTENCE

1. The accused were charged with murder contrary to section 203 as read with 204 of the [Penal Code](#). Upon full hearing of the matter, the accused was found guilty and convicted accordingly in a judgment dated the 6/7/2023.
2. During mitigation, the accused’s counsel urged that, “Accused is remorseful. He is a first offender. He regrets the incident that led to the death of the deceased. He is married with a son aged 13 years. He begs for mercy and leniency. We also request the court considers the time he has been in custody and alternative sentence. He has been in custody since 2017. He has not been out on bond.”
3. In reply, counsel for the prosecution urged that, “I do not have records. He is a first offender. I rely on probation officers report of 6/11/2023 which recommended a custodial sentence, accused was convicted for offence of murder which has a maximum sentence of death. The same is not mandatory sentence. The court need to look into the context in the statistics in registered for murder in Meru law courts. We are at No. 83 of 2023. Last year record was above that number. It means that something is not right in the county. The action and accused and society. The sentencing policy takes into account the accused, victims and society. The reconciliation effort between accused and victim’s family had been concluded for the pre-sentencing report. The way the murder happened the circumstance as aggravating circumstances tilts in favour of the victim. The accused’s mitigation, circumstances do not outshadow the aggravating circumstances which is a serious offence. The court will consider the period spent in custody under section 333(2) of [CPC](#). However, during that period of the incident and the court treated him as innocent and it was upon conviction that circumstances changed. Custodial



sentence is paramount in this matter, the prison authorities will change the accused person's ways through reform, education, so that he becomes a better person. This is the best form for his integration back to the society. The victim family will feel a sense of relief in as much as deceased has died and life could not be brought back, but justice will be done to accused. I urge the court to impose a custodial sentence. I urge the court to balance between 20-30 years."

4. In rejoinder, the accused counsel observed that, "Accused is from Isiolo. The statistics from Meru County do not apply. The court should look at circumstances of the matter. There were several accused persons. The accused was part of a group."
5. In recommending for a custodial sentence, the probation officer vide his report dated 6/11/2023 stated that, "Your Lordship, despite reconciliation efforts done by the offender's and victim's families, the offender shows no remorse for his actions. He still denies the commission of the offence and as such it becomes difficult to prepare a workable rehabilitation plan and implement the same for the benefit of the offender."
6. It is reported in that report that when the victim's family was interviewed, "they said that the death of the victim was a great loss to them. His mother stressed that since the death of her son, life became very difficult since he was the family pillar. She continues to mourn him to date.
7. It is further reported that through the intervention of the community leaders however, the two families have since reconciled and they have no grudges against the offender or his family members.
8. The court has considered that the accused and the victim were relatives. As urged by the counsel for the accused, there were several accused persons and the accused was in part of a group, but this court is only concerned with the accused contribution to the commission of the offence. This court finds that in holding the deceased, so that he could be fatally stabbed, without any provocation whatsoever, the accused must bear responsibility.
9. This court thus considers that a custodial sentence is necessary, the reconciliation efforts alluded to in the probation report, notwithstanding. A jail term of 20 years shall enable the reform of the 32 year old accused and early release at an age when he will make meaningful contribution to development of the nation and his society.
10. The accused was arraigned in court on 14/12/2017 to face the charges herein.

Orders

11. Accordingly, the accused having been convicted for offence of murder contrary to section 203 as read with 204 of the [Penal Code](#), is sentenced to serve imprisonment for a period of twenty years.
12. In terms of section 333 (2) of the [Criminal Procedure Code](#), the sentence of imprisonment for 20 years shall take into account the entire period of six years that the accused was in remand during his trial.

Order accordingly.

DATED AND DELIVERED ON THIS 31ST DAY OF JANUARY, 2024.

EDWARD M. MURIITHI

JUDGE

Appearances

Mr. Masila Principal Prosecution Counsel for the DPP.

Mr. Wamache for the Accused.

