

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CORAM: R.E. OUGO J

CRIMINAL CASE NO 11 OF 2016(MURDER)

REPUBLIC.....PROSECUTION

VERSUS

MATUNDURA NYAMWEYA.....ACCUSED

SENTENCING

1. Matundura Nyamweya by information dated 15/4/2016 was charged with murder contrary to section 203 as read with section 204 of the Penal Code. He has been found guilty of the murder of **Kashmir Onsari Mariera**. The accused was charged on the 15/4/2016. His trial up to conviction has taken about 3 ½ years. He has been out on bond.

2. The prosecution states that he is first offender. I have considered the mitigation raised. He is said to be remorseful. He is said to be the sole bread winner and that it is alcohol that led him to commit the offence. It was also stated that he has tried to extend a hand of reconciliation to the deceased's family. The widow of the deceased has informed the court that she has forgiven the deceased and that she leaves it to court.

3. The pre-sentence report indicates that he is a father of 5 children. The report further states that community is complaining of his behavior of drinking even after being released on bond and that he is a nuisance in the community as they have a lot of complaints from the public. The report indicates he has a previous conviction of being drunk and disorderly and that he is not remorseful as he proudly says that for him it is normal to be violent when drunk and the people does not joke with him. The report further indicates that the community is negative and that the widow's brother and that a custodial sentence is in order since the accused is not remorseful.

4. The pre-sentence report is not favourable. It is apparent that the accused person has not changed his behavior despite being released on bond and has not even shown any remorse whilst a bond. The deceased lost his life in circumstances that were unwarranted.

5. Having considered all the above and I sentence the accused **Matundura Nyamweya** to 20 years in jail. He has a right of appeal within 14 days.

Dated, signed and delivered at Kisii this 11th Day of November 2019

R. E. OUGO

JUDGE

In the presence of;

Accused In Person

Mr. Magara h/b Mr. Nyangacha For the Accused

Mr. Otieno Senior Prosecution Counsel office of the DPP

Evans Court Clerk