



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KISII**

**CRIMINAL CASE (MURDER) NO 47 OF 2019**

**REPUBLIC.....PROSECUTOR**

**-VERSUS-**

**GEORGE MORARA OROBA.....ACCUSED**

**RULING ON SENTENCE**

1. On 22.10.2021 the accused person herein **George Morara Oroba** was found guilty of the offence of **murder contrary to section 203 of the Penal Code** and this court convicted him accordingly. I sought a presentence report which has been tendered in court. His lawyer mitigated. The prosecution indicated that the accused is a first offender.

2. The probation report filed on the 9/11/21 states that; the accused is known to be a nuisance, a thief and murderer and extortionist in the community. He is not suffering from any terminal disease. He drinks alcohol and abuses drugs. The home environment is not conducive for his release and rehabilitation. The family attitude is that releasing the accused will cause more harm to the family and even his life will be no more and they request for a life sentence. The community attitude is that the accused deserves a life sentence for the safety of Rioma people. The victim's father has requested for a life sentence. The reports indicates that the accused is 50 years old and that he is a serial offender as per his family and community. That his brother a police officer attached in Ngong Nairobi gave various crimes where he was convicted although he could not recall the file numbers, they range from year 2002 to 2016 when the one of assaulting the mother was withdrawn. That the deceased was his first wife and they have 4 children. It is recommended that the accused be given a life sentence as the community is negative about him and they vowed to lynch him if he is released.

3. Mr. Kimaiyo for the accused stated as follows in mitigation; that the accused is remorseful, he has been in custody for over 2 years. He has learnt a lot and he has reformed. He has young children and that the said children and his other wife depend on him. That he is suffering from a terminal disease and seeks a lenient sentence.

4. I note that an innocent life was lost. The accused was determined to cause grievous harm to deceased which led to her death. He thereafter disposed of the body by burying it in a pit latrine. The accused is said to be a nuisance and of bad conduct both in his home and the community. His relatives want nothing to do with him. The probation report details his conduct and recommends a life sentence.

5. I have taken into account the following the circumstances that lead to the death of the deceased, the time the accused has been in custody, the decision of the Supreme Court in Francis Karioko Muruatetu & Anor v Republic (2017) e KLR, the mitigating factors submitted by counsel, the Probation officer's report incorporating the attitude of the offender and that of the community and the victim's family and the Judiciary Sentencing Policy Guidelines. Punishment for a person convicted of murder is death. In my view a non-custodial sentence is not suitable. Though it is stated that the accused suffers from a terminal illness there was no proof of such an illness.

6. I hereby sentence the accused person **George Morara Oroba** to serve forty (40) years imprisonment from the date of sentence. The accused has a right of appeal.

**Dated, Signed and Delivered at Kisii this 16<sup>th</sup> day of November 2021**

**R. E. OUGO**

**JUDGE**

**In the presence of:**

**George Morara Oroba Accused Present**

**Mr. Kimaiyo For the Accused**

**Mr. Kaino State Counsel ODPP**

**Ms Rael Court Assistant**