



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KAKAMEGA
CRIMINAL CASE NO. 13 OF 2018

REPUBLIC
PROSECUTOR

VERSUS

JOSEPH BURUDI SHIMWENYE
ACCUSED

RULING ON SENTENCE

1. The Accused was convicted of murder contrary to Section 203 as read with Section 204 of the Penal Code. The facts that emerged during the hearing are that the Accused hit the deceased on the head causing a cut on the scalp measuring 6cm x 2cm and thereafter the Accused was found naked having drowned in the river. The Doctor attributed the death to the head injury. What connected the Accused to the murder was the fact that having been

last seen with the deceased, he was seen with the clothes she had been wearing the same night she disappeared.

2. In mitigation, the Accused who is a member of the Nguvuli Divine Church, had since his arrest, made peace with his maker through praying and seeking forgiveness. Ms. Mahuni, Counsel for the Accused submitted that the Accused is a father of four (4) and since his arrest, their mother has been taking care of them singlehandedly. She submitted that the Accused, who had been an illicit brew seller had reformed after many years in custody. He pleaded for leniency considering that he has been in custody since 2018.
3. Ms. Chala for the Prosecution referred to the pre-sentence report and submitted that the Accused was still in denial and cannot claim to be ready to change if he is still unable to acknowledge his crime.
4. I have considered the mitigation tendered by the Accused as well as the findings in the pre-sentence report. The Accused is a 52 year old. The Accused was said to be a violent man with a propensity for crime. His wife deserted him on account of battery, drunkenness and

irresponsibility. Despite submitting that he has reformed, the Accused still denies committing the offence.

5. The pre-sentence report further states that the victim was aged 62 years old and left 5 children surviving her. Her family suffered deep loss and desire a custodial sentence in order to have a sense of retribution.
6. The main objectives of sentencing are retribution, deterrence, rehabilitation, protection of the public, restitution, accountability and denunciation. From the pre-sentence report, the Accused needs to be made accountable for his crime, to be punished in order to deter him from committing other crimes in future, and to be rehabilitated. His punishment should also ensure that he pays for his crime while at the same time protecting the public from him until he changes his character.
7. The Accused attacked a vulnerable woman who was much older than him and trusted him when he said he would escort her home. He caused her to die a painful death as after she sustained the cut, she drowned in the river. One cannot imagine how she felt while drowning helplessly yet

knowing that she whom she had trusted was the cause of her death.

8. Taking into account the circumstances, I hereby sentence the Accused to twenty (20) years' imprisonment. The sentence shall run from the date the Accused was first placed in custody in accordance with Section 333 (2) of the Criminal Procedure Code.

Dated, Signed and Delivered at Kakamega this 1st day of December 2025.

**A. C. BETT
JUDGE**

In the presence of:

Ms. Chala for the Prosecution

Ms. Wanyonyi holding brief for Ms. Mahuni for the Accused

Court Assistant: Polycap