



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**PETITION NO. 150 OF 2018**

**FREDA KANUI MUSA Alias FRIDA KARUGU.....PETITIONER**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING ON RE-SENTENSING**

1. The petitioner, **Freda Kanui Musa Alias Frida Karugu** was charged with murder contrary to *section 203 as read with section 204 of the Penal Code*. The information charged that on 25/12/2006, at Munithu Location of the then Meru Central District within the present Meru County, she murdered **Mercy Kagwiria**.

2. After trial, the petitioner was found guilty and sentenced to death. Being aggrieved by that decision, she appealed to the Court of Appeal which appeal was dismissed on 26/2/2015. However, the Court of Appeal set aside the death sentence and sentenced the petitioner to life imprisonment.

3. Vide her Petition filed on 17/7/2018, she petitioned this Court to review her sentence on the basis of the Supreme Court decision in the case of **Francis Muruatetu and Others vs Republic [2017] eKLR**.

4. In that case, the Supreme Court of Kenya held that the mandatory nature of the death sentence was unconstitutional as it denied the Court its discretion in sentencing. The Court proceeded to set out the criteria or the principles that should guide a Court in sentencing. Some of the considerations are *age of the offender, being a first offender, whether the offender pleaded guilty, the character and record of the offender, commission of the offence in response to gender-based violence, remorsefulness of the offender, the possibility of reform and social re-adaptation of the offender and any other factor that the Court considers relevant*.

5. I have considered the foregoing and the circumstances under which the offence was committed. The petitioner stabbed the deceased with a knife on that fateful Christmas day when the deceased had come home to visit her child. The petitioner had hid the knife in her waist before she accosted the deceased. She had really pre-meditated her act.

6. The state urged that a sentence of 50 years be meted out to the petitioner although she is a first offender. In her mitigation, the petitioner stated that she committed the offence without knowing and she asked for forgiveness.

7. Taking into consideration the facts of the case and how the petitioner committed the offence as well as the mitigation, I see no reason to interfere with the life sentence meted out on her by the Court of Appeal. The petition is hereby dismissed.

**DATED** and **DELIVERED** at Meru this 11<sup>th</sup> day of December, 2019.

A. MABEYA

**JUDGE**

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