

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA**

**HIGH COURT CRIMINAL SESSION CASE NO.35 OF 2014 (arising from HCT –  
Crim. No. 78 of 2001)**

**UGANDA :::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::PROSECUTIO  
N**

**VERSUS**

**BAGUMA JOHN :::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::  
CONVICT**

**RULING BY HON. MR. JUSTICE JOSEPH MURANGIRA**

**1. Introduction**

**1.1** This matter was placed before me in a mitigation and re-sentencing session for sentencing the convict. It should be noted that I was not the trial Judge in this case that involved the convict. The trial Judge was Hon. Mr. Justice V.T. Zehukize(retired). The convict was tried, convicted and sentenced to death by the aforestated Judge.

**1.2** The convict, Baguma John came before the High Court for sentencing pursuant to the decision of the Supreme Court of Uganda in Attorney General-vs-Susani Kigula & 417 others, Constitutional Petition Appeal No. 3 of 2006, which found that the previous mandatory death penalty regime was unconstitutional. Each convict who was subject to the automatic death sentence and not yet exhausted the appeal process was remitted back to the High Court for mitigation and sentence, which was confirmed by the subsequent case of Ambaa Jacob & Another –vs-Uganda, Criminal Appeal No. 10 of 2009.

**1.3** The prosecution is represented by the Directorate of Public Prosecutions. This matter was argued by Ms. Nalwanga Sherifah, State Attorney. Whereas, the convict was represented by Mr. Senkezi Stephen of Senkezi, Saali Advocates & Consultants. Both Counsel for the parties ably submitted for and against as the case may be, in the mitigation process for their respective parties.

## **2. Sentencing the convict.**

**2.1** In sentencing the convict the following factors/reasons are considered:-

- 1) The cases of Attorney General-vs- Susan Kigula & 417 others (Supra) and Tigo Stephen –vs- Uganda Criminal Appeal No.8 of 2009.
- 2) All the mitigating factors submitted by both Counsel for the prosecution and that of the convict. Both counsel presented convincing arguments which have ably guided this court to passing appropriate sentence against the convict.
- 3) The Constitutional (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, Legal Notice No.8 of 2013 particularly part 1 of the 3<sup>rd</sup> schedule.
- 4) For special emphasis, I have also considered the following factors:-
  - (i) The convict was convicted of murder contrary the sections 188 and 189 of the penal code Act, which carries a maximum sentence of death.
  - (ii) The offence of murder is rampantly committed in Uganda. There is a dire need to pass a more serious sentence against the wrong doers so as to curb down the crime and to send a message to the intending wrong doers.
  - (iii) From the facts of the case whereby the convict who is the husband of the deceased picked a panga and cut the deceased on the head, arms and other parts of the body. The deceased sustained several injuries on her body. The deceased died because of excessive bleeding. These aggravating factors squarely falls under paragraph 20 of the sentencing guidelines (Supra)
  - (iv) I have considered also the prison's report, the social inquiry report and the pre-sentence report, which reports are on record and were relied on

by Counsel for the convict. From the submissions by Counsel for the convict I have no doubt that the convict is capable of reforming when given an imprisonment sentence instead of the death sentence.

- (v) The convict is a first offender with no record of past violent actions.
- (vi) The convict spent 2 years and 2 months on remand before conviction, which period I have taken into consideration when passing the sentence against the convict.

In the result and for the reasons given hereinabove in this ruling, the convict deserved the death sentence. However, in accordance with the authorities cited above, the sentencing judge has a wide discretion to use the series and types of evidence used by both Counsel to determine the kind and extent of the punishment to be imposed within the limits fixed by law.

Accordingly, therefore, I make a finding that the convict in this case deserves an appropriate imprisonment sentence. Thus, taking into account the number of 2 years the convict spent on remand I would have sentenced the convict to 40 (forty) years imprisonment, but I deduct the 2 years he spent on remand before conviction. I, therefore, sentence the convict to 38 years imprisonment from the date of conviction, which sentence he has so far served 11 years and 6 months.

Dated at Kampala this 16<sup>th</sup> day of July, 2014.

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**Joseph Murangira**

**Judge.**