

**THE REPUBLIC OF UGANDA**

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

**HIGH COURT CRIMINAL SESSION CASE NO.133 OF 2014 (Arising from High Court Criminal Case No. 83 of 2001)**

**UGANDA :::PROSECUTION**

**VERSUS**

**TWIKIRIZE ALICE :::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. 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 Lameck N. Mukasa (currently Head, Criminal Division of the High Court). The convict was tried, convicted and sentenced to death by the aforestated Judge.

**1.2** This convict, Twikirize Alice, comes before the High Court for sentencing pursuant to the decision of the Supreme Court of Uganda in Attorney General-vs-Susan Kigula & 417 others, Constitutional Petition Appeal No 03 of 2006 which found that the previous mandatory death sentence regime was unconstitutional. Each convict who was subject to the automatic death sentence and had not yet exhausted the appeal process was remitted back to the High Court for mitigation and sentence, which was echoed 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 Prosecution. This matter was argued on behalf of the prosecution by Ms. Nalwanga Sherifah, State

Attorney. Whereas, Mr. Senkezi Stephen from Senkezi, Saali Advocates and Consultants represented the convict.. Both Counsel ably submitted for and against, as the case may be, in mitigation process for their respective parties for the appropriate sentence..

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

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

- 1) The cases of Attorney General-vs- Susan Kigala & 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 pass an 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 to Sections 188 and 189 (2) of the Penal Code Act, which carries a maximum sentence of death. This offence is rampantly committed in Uganda.
  - (ii) From the facts of the case submitted on by Counsel for the prosecution whereby the convict brutally murdered her step-daughter who was aged 5 years (see paragraph 20 of the sentencing guidelines (Supra). The way the deceased was murdered puts this case in the rarest of the rare cases as provided under paragraph 18 of the sentencing Guidelines (Supra). The aforesaid call for a stiff sentence.
  - (iii) I have also considered the prison's report, the social inquiry report and the pre-sentence report, which reports were relied on by Counsel for the convict. From the said reports and submissions by Counsel for the convict, I have no doubt that the convict has the capacity to reform given a chance.
  - (iv) The convict is a first offender, with no record of past violence in society she lived in.

- (v) The convict spent about three (3) years on remand before conviction, which period I have considered when passing the sentence against the convict.

In the result and for the reasons given hereinabove in this ruling, the convict deserved a death sentence. However, owing to the legal position as set out the authorities quoted hereinabove, the sentencing Judge has a wide discretion in determining the sentence to be imposed against a convict.

Accordingly, therefore, I make a finding that the convict in this case deserves an appropriate imprisonment sentence. Thus taking into account the number of about 3 years the convict spent on remand, would have sentenced the convict to 40 (forty) years imprisonment, but I deduct the 3 years she spent on remand before conviction. I, therefore, sentence the convict to 37 (thirty-seven) years imprisonment from the date of conviction, which sentence she has so far served 9 (nine) years and 6 (six) months.

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

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**Joseph Murangira**

**Judge.**