

**THE REPUBLIC OF UGANDA**

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

**HIGH COURT CRIMINAL SESSION CASE NO.175 OF 2014 (arising from HCT –  
Crim. No. 69 of 2003)**

**UGANDA :::PROSECUTION**

**VERSUS**

**KAIJA STEPHEN :::CONVICT**

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

**1. Introduction**

**1.1** The prosecution is represented by Ms. Nalwanga Sherifa, State Attorney. Whereas the convict is represented by Mr. Senkezi Stephen from Senkezi, Saali & Co. Advocates.

**1.2** This matter is before me for mitigation and sentence of the convict. It should be noted that the trial Judge of the convict was Hon. Mr. Justice Lameck N. Mukasa. The trial Court sentenced the convict to death, which the mandatory death penalty regime was declared unconstitutional in the case of Attorney General –vs- Susan Kagula & 417 others, Constitutional Petition Appeal No.3 of 2006. This matter, was therefore, sent to the High Court for sentencing. Both Counsel addressed Court on the mitigating factors for sentencing the convict.

**2. Sentencing the convict**

In sentencing the convict the following factors have been considered:-

- 1) All the submissions in mitigation by both Counsel for the parties.

- 2) The submissions by Counsel for the prosecution brought out very well the aggravating factors against the convict that place this case in the rarest of rare cases. The convict would deserve a death sentence.
- 3) The convict was convicted of murder, which offence carries a maximum sentence of death. Thus, it is a serious offence.
- 4) The facts of the case and the circumstances in which the deceased was murdered show that the killing was planned and brutal at the same time. The actions of the convict during the killing of the deceased all fit very well in paragraph 20 of the sentencing guidelines, legal notice No.8 of 2013.
- 5) The convict is a first offender.
- 6) I have also considered the prison's report, the social inquiry report and pre-sentence report in relation to the convict and I have no doubt that the convict has the capacity to reform.
- 7) The convict spent about 2 years on remand before conviction.

In the result, I would have sentenced the convict to 40 (forty) years imprisonment, but I do deduct the two (2) years the convict spent on remand before conviction. Therefore, the convict is sentenced to 38 (thirty eight) years imprisonment from the date of conviction.

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

**Joseph Murangira**

**Judge.**