

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA SITTING AT GULU**  
**CRIMINAL SESSIONS CASE No. 0091 OF 2015**

**UGANDA** ..... **PROSECUTOR**

5 **VERSUS**

**AMONO KEVIN** ..... **ACCUSED**

**Before: Hon Justice Stephen Mubiru.**

10 **SENTENCE AND REASONS FOR SENTENCE**

When this case came up on 6<sup>th</sup> August, 2018 for hearing, the accused was indicted with two counts of Murder c/s 188 and 189 of the *Penal Code Act*. In the first count, it was alleged that on 20<sup>th</sup> November, 2014 at Labayonga village in Lamwo District, the accused murdered Lajara Sharon by poisoning. In the second count, it was alleged that on 20<sup>th</sup> November, 2014 at Labayonga village in Lamwo District, the accused murdered Oryema Alfred by poisoning. The accused pleaded not guilty and the case was fixed for commencement of hearing on 10<sup>th</sup> August, 2018.

20 Today, when the case was called, the learned Resident Senior State Attorney, Mr. Patrick Omia Resident reported that he had successfully negotiated a plea bargain with the accused and her counsel. The court then invited the State Attorney to introduce the plea agreement and obtained confirmation of this fact from defence counsel on state brief, Ms. Harriet Otto. The court then went ahead to ascertain that the accused had full understanding of what a guilty plea means and its consequences, the voluntariness of the accused’s consent to the bargain and appreciation of its implication in terms of waiver of the constitutional rights specified in the first section of the plea agreement. The Court being satisfied that there was a factual basis for the plea, and having made the finding that the accused made a knowing, voluntary, and intelligent plea bargain, and after she had executed a confirmation of the agreement, went ahead to receive the agreement to form part of the record. The accused was then allowed to take plea afresh, whereupon a plea of guilty was entered on each of the two counts.

The court then invited the learned State Attorney to narrate the factual basis for the guilty plea, whereupon he narrated the following facts; on 20<sup>th</sup> November 2014, at Labayango village, Kathim Parish, Padibe East sub-county Lamwor District around 5.00 pm, the accused gave food to one Oryema the deceased in count 2 a son to a co-wife. He instructed him to eat that food from the kitchen. Oryema came outside with the food and other siblings joined him to eat the food. As they were eating the food, the children complained that the millet bread was bitter and when they stopped eating, the accused instructed Lajara and Oryema to swallow without chewing even if it is bitter, which they did. The accused collected all the food that had remained and took it away. Meanwhile the accused restrained her son Changwat who wanted to join the siblings in eating the food. He grabbed the child and took him away and left those of the co-wives to eat. The children began vomiting but Lajara and Oryema became unconscious. The ones still conscious informed their grandmother who immediately informed other village-mates. The children were rushed to Lamwor Health Centre from where Lajara Sharon the victim in count I and Oryema Alfred died. The other four children were admitted and recovered. Post mortem examination was carried out on the two deceased by Dr. Omwoya Denish Ochola of lamwo Health Centre and he found that Lajara had died of severe organal phosphate poison. The same doctor performed an autopsy on Oryema and found the sane cause of death. Meanwhile the accused was examined on 27<sup>th</sup> November, 2014 and found to be mentally normal and had no physical injuries. She was 23 years old at the time. Detectives from Lamwo Police station visited the scene of crime and they recovered the remains of a chemical called Icon used in the sub-region for indoor spray to control mosquitoes. Her husband was one of the people involved in that exercise. The respective medical examination reports too were admitted as part of the facts.

Upon ascertaining from the accused that the facts as stated were correct, she was convicted on her own plea of guilty for the offence of Murder c/s 188 and 189 of the *Penal Code Act*, in respect of each of the two counts. In justification of the sentence of thirteen (13) years' imprisonment proposed in the plea agreement, the learned State Attorney adopted the aggravating factors outlined in the plea agreement, which are that; the accused clearly intended to kill at first Oryema, a son to a co-wife and ended up killing two and attempted to kill four other children who joined in. Her action could have wiped out all the children of the co-wife. These were innocent children who had nothing to do with her relationship with her husband and

the co-wife. The mother of the children had long left the home and the children were under her care. She is a heartless mother. The dogs and chicken that ate the left overs died. This act must be condemned. It is prevalent within the community. Co-wives have a habit to kill or mistreat children of co-wives. This is why we came to this agreement. She has been on remand for three  
5 years and eight months since 5<sup>th</sup> December, 2014 and this is a case that attracts a sentence of death.

The learned defence counsel too adopted the mitigating factors outlined in the plea agreement, which briefly are that; the convict is a first offender and has no previous conviction. She is  
10 remorseful and has not wasted court's time. He has spent three years and eight months on remand. The deceased was taking care of the deceased. She left two little children at home. In her *allocutus*, the convict prayed for forgiveness for the act she committed. She is a total orphan. She has a disabled grandfather who sustained injuries by gunshot during the insurgency. Her sister is HIV positive and is bed ridden yet she was taking care of the children.

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I have reviewed the proposed sentence of thirteen years' imprisonment in light of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*. I have also reviewed current sentencing practices for offences of this nature. In this regard, I have considered the case of *Bukenya v. Uganda C.A Crim. Appeal No. 51 of 2007*, where in its  
20 judgment of 22<sup>nd</sup> December 2014, the Court of Appeal upheld a sentence of life imprisonment for a 36 year old man convicted of murder. He had used a knife and a spear to stab the deceased, who was his brother, to death after an earlier fight. In *Sebuliba Siraji v. Uganda C.A. Cr. Appeal No. 319 of 2009*, in its decision of 18<sup>th</sup> December 2014, the court of appeal confirmed a sentence of life imprisonment. In that case, the victim was a businessman and the accused was his casual  
25 labourer. On the fateful day, the accused waited for the deceased with a panga hidden in a kavera (polythene bag) and when the deceased opened his vehicle, the appellant attacked him and cut him with a panga on his head, neck and hand. In *Uganda v. Businge Kugonza H.C. Cr. Sess. Case No. 162 of 2012* the accused was convicted of murder after a full trial and was on 11<sup>th</sup>  
30 September 2013 sentenced to 20 years' imprisonment. The convict in that case had dug hole in the wall of the victim's house and cut him to death with a panga while he slept in his bed. In *Uganda v. Ocitti Alex and another, H.C. Cr Sessions Case No. 0428 of 2014*, an accused who

plead guilty to an indictment of murder was on 7<sup>th</sup> November 2014 sentenced to 25 years' imprisonment. The 43 year old accused hit the deceased with an axe at the back of his head multiple times. In *Uganda v. Mutebi Muhamed and another, H.C. Cr Sessions Case No. 038 of 2011*, one of the accused who pleaded guilty to the offence of murder was on 17<sup>th</sup> January 2014  
5 sentenced to 25 years' imprisonment while the other convicted after a full trial was sentenced to 30 years' imprisonment. The two convicts had killed the deceased by stabbing repeatedly on vulnerable parts of the body such as the head, the chest and near the breast during a robbery. Lastly, the case of *Tom Sazi Sande alias Hussein Saddam v. Uganda C.A Cr Appeal No. 127 of 2009*, where in its decision of 24<sup>th</sup> March 2014, the Court of Appeal upheld a sentence of 18  
10 years' imprisonment for an accused who pleaded guilty to an indictment of murder. He had been on remand for 2 years and 3 months.

Having considered the sentencing guidelines and the current sentencing practice in relation to offences of this nature, I hereby accept the submitted plea agreement entered into by the accused,  
15 his counsel, and the State Attorney. In accordance with Article 23 (8) of the Constitution and Regulation 15 (2) of *The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013*, to the effect that the court should deduct the period spent on remand from the sentence considered appropriate, after all factors have been taken into account, I observe that the convict has been in custody since 8<sup>th</sup> December, 2014 and I hereby take into  
20 account and set off three years and eight months as the period the convict has already spent on remand. I therefore sentence the convict to a term of imprisonment of nine (9) years and four (4) months, on count 1 and a term of imprisonment of nine (9) years and four (4) months in respect of count 2, both sentences to be served concurrently starting today.

25 Having been convicted and sentenced on her own plea of guilty, the convict is advised that she has a right of appeal against the legality and severity of this sentence, within a period of fourteen days.

Dated at Gulu this 10<sup>th</sup> day of August, 2018

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Stephen Mubiru  
Judge,  
10<sup>th</sup> August, 2018.