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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDENT AT KABALE

HCT-11-CRIMINAL CASE-00CR-CSC-0034 OF 2021

(Arising from Criminal case KIS No. AA-0039 of 2020)

(Arising from KIS CRB No. 558 of 2020)

10

UGANDA:.....PROSECUTION

VERSUS

NDIKUMUKIZA GERALD:.....ACCUSED PERSON

15

BEFORE: HON. JUSTICE SAMUEL EMOKOR

JUDGMENT

Ndikumukiza Gerald who for the rest of my Judgment I shall refer to as the Accused is indicted on 4 counts of Murder Contrary to **Section 188** and **189** of the **Penal Code Act**.

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The facts giving rise to this indictment are that Ndikumukiza Gerald on the 24/09/2020 at Kagyeyo Village, Busengo Parish, Nyarubuye Sub County in Kisoro District with malice aforethought unlawfully caused death to Sebitama Deo, Nyirakuhirwa Beneconcila, Mujawimana Mariserina and Nyiramahoro Joan.

The Accused pleaded not guilty on all 4 counts.

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Representation:

Mr. Ainomugisha Christopher (Chief State Attorney) appeared for the Prosecution while Mr. Bakanyebonera Felix represented the Accused on state brief.

The Assessors in this trial were Ms. Zeridah Sendegeya and Mr. Tumushime Emmanuel.

5 At the Preliminary hearing sanctioned under **Section 66** of the **Trial of Indictment Act** the following medical reports were admitted as uncontested.

- 1) PF48A the request for a post mortem to be carried out on Sebitama Deo received as Exhibit. P1.
- 2) PF48A the request for a post mortem to be carried out on Nyirakuhirwa Boneconcila received as Exhibit P2.
- 3) PF48A the request for a post mortem to be carried out on Mariserina Mujawimana received as Exhibit P3.
- 4) PF48A the request for a post mortem to be carried out on Nyiramahoro Joan received as Exhibit P4.
- 5) PF48C the post mortem report in respect of Sebitama Deo received as Exhibit P5.
- 6) PF48C the post mortem report in respect of Nyirakuhirwa Boneconcila received as Exhibit P6.
- 7) PF48C the post mortem report in respect of Mariserina Mujawimana received as Exhibit P7.
- 8) PFC in respect of Nyiramahoro Joan received as Exhibit P8.
- 9) PF24 in respect of the medical examination carried on the Accused received as Exhibit P9.

The burden and standard of proof.

25 This being a criminal case it is one whose proof lies squarely on the Prosecution and never shifts to the Accused. It is also proof beyond reasonable doubt. Any doubts must be resolved in favour of the Accused and the Accused must only be convicted on the strength of the Prosecution case and not on the weakness of the defence case.

See Ssekitoleko verses Uganda (1961) EA 53.

5 **Ingredients of the offence.**

The Prosecution must prove each of the following essential ingredients beyond reasonable doubt for the Accused to be convicted of murder.

- 1) Death of a human being.
- 2) The death was caused by some unlawful act.
- 10 3) The unlawful act was actuated by malice aforethought.
- 4) That it is the Accused who caused the unlawful death.

a) Death of a human being.

Death may be proved by Production of a post mortem report or evidence of a witness who states that they knew the deceased and attended the burial or saw the dead body.

- 15 To prove death the Prosecution presented Nyiramugisha Mangadalena (PW1), Irakiza Edward (PW2), Uwimana Berina (PW3) and Nvuyekure Cypriano (PW6) who testified that they all knew the deceased persons in Sebitama Deo, Nyirakuhirwa Boneconcila, Mujawimana Mariserina and Nyiramahoro Joan and that they viewed their bodies in the night of the 24/09/2020 and attended their burial
- 20 on 25/09/2020.

Their evidence is well corroborated by the post mortem reports in Exhibit P5, for Sebitama Deo, Exhibit P6 for Nyirakuhirwa Boneconcila, and Exhibit P8 for Nyiramahoro Joan.

Indeed the Accused in his defence did not dispute the fact that they were all dead.

- 25 I therefore find that the Prosecution has proved beyond reasonable doubt the death of Sebitama Deo, Nyirakuhirwa Boneconcila, Mariserina, Mujawimana and Nyiramahoro Joan.

5 **a). That the death was caused by some unlawful act.**

The law presumes that any homicide (killing of a human being by another) is presumed to have been caused unlawfully unless it was excusable, accidental or authorized by law.

(See R versus Gusambizi s/o Wesonga (1948) EACA 65).

10 It is the undisputed evidence of PW1, PW2, PW3, PW4, PW5 and PW6 that when they viewed the bodies of Sebitama Deo, Nyirakuhira Boneconcila, Mariserina Mujawimana and Nyiramahoro Joan the bodies bore deep cut wounds on many parts of their bodies and their clothes were blood stained. The post mortem report in
15 leading to hemorrhagic shock.

There is absolutely no evidence that any of their deaths was either excusable, accidental or authorized by law.

It is therefore my finding that the Prosecution has provided beyond reasonable doubt that the deaths of Sebitama Deo, Nyirakuhirwa Boneconcila, Mariserina
20 Mujawimana and Nyiramahoro Joan was unlawful.

c). that the unlawful act was actuated by malice aforethought.

Section 191 of the **Penal Code Act** provides that malice aforethought may be proved by direct evidence or may be inferred from the evidence indicating knowledge that the conduct of an Accused would probably cause death.

25 The Court in **R versus Tubere (1945) 12 EACA 63** provided the following guide on the circumstances from which an inference of malicious intent can be deduced.

(a) The weapon used i.e whether it was a lethal weapon or not.

5 (b) *The part of the body that was targeted i.e whether it was a vulnerable part or not.*

 (c) *The manner in which the weapon was used i.e whether repeatedly or not, or number of injuries inflicted.*

10 (d) *The conduct of the Accused before, during and after the incident i.e whether there was impunity.*

PW1, PW2, PW3, PW4, PW5 and Pw6 all testified that they viewed the bodies of the four deceased persons and that the bodies were blood stained with multiple cut wounds.

15 The post mortem report in respect of Sebitama Deo in Exhibit P5 reveals that his clothes were blood stained with penetrating injuries to the neck, face, arms and both lower limbs. His cause of death was listed as severe hemorrhage leading to hemorrhagic shock and death. The weapon likely to have caused the injuries was listed as a panga.

20 The post mortem report in regard to Nyirakuhira Boneconcila in Exhibit P6 reveals that she had no clothes and was in a blood stained environment. She had a deep cut wound to the head with her brain matter out, a deep cut wound to the neck, upper arms, shoulders, both lower limbs and buttock.

25 Cause of death is listed as severe head trauma, severe hemorrhage leading to hemorrhagic shock then death. The weapon likely to have been used upon the body was listed as a panga.

 The post mortem report in respect of Mujawimana Mariserina in Exhibit P7 reveals that her clothes were blood stained, she had deep cut wounds to the neck, hand and the lower limbs. Her cause of death is listed as severe hemorrhage due to deep cut

5 wounds leading to hemorrhagic shock causing death and the weapon likely to be used upon the body was a sharp panga.

The post mortem report in respect of Nyiramahoro Joan reveals that her clothes were blood stained and her head was completely shattered with the brain matter out. Her cause of death was listed as severe brain injury, severe hemorrhage leading to
10 hemorrhagic shock to death and the weapon likely to have caused the death was a panga.

I have no doubts from the evidence of the Prosecution witnesses and the post mortem reports that the intention to target the head and necks of the four deceased persons using a panga was intended for maximum impact and that was to take their lives
15 which the assailant was able to achieve.

It is therefore my finding that the Prosecution has proved beyond reasonable doubt that deaths of Sebitama Deo, Nyirakuhirwa Boneconcila, Mujawimana Mariserina and Nyiramahoro Joan was actuated by malice aforethought.

d). Participation of the Accused.

20 The Accused in this case in his sworn defence denied the charges leveled against him stating that on the 24/09/2020 he was in Kyazanga in Rwengo District working for one Rwigye Posiano who was away in Russia and only heard of the death of his family members on radio and that when he travelled to Kisoro District on the 28/09/2020 he was arrested at the bus park and that all the Prosecution witnesses
25 told lies against him.

The Accused in effect has raised the defence of alibi and he has no duty to prove this defence. The onus is on the Prosecution to discredit this defence and to place the Accused at the scene of crime.

5 **(See Kyalimpa Edward versus Uganda SCCA No. 10 of 1995).**

The Prosecution in discharging this obligation presented Irakiza Edward (PW2) an eleven year old boy (although his father the Accused placed him at 13 years) who testified on oath after a voire dire had been conducted and identified the Accused as his father and that Sebitama Deo was his grandfather, Bonecooncila was his grandmother, Mariserina was his mother and that Joan was his Auntie.

It is the evidence of Irakiza (PW2) that about 2 years ago they were in the kitchen with their mother Mariserina eating together at night with his brother Isaac when their father the Accused who used to work in Kampala and was not around that day came into the house as they were eating and that their mother had a torch that they were using for lighting and also there was light from the kitchen fire that they had been using for cooking.

Irakiza (PW2) testified that the Accused then cut their mother on the head, back and on the legs and that as he did so the Accused cut off his right hand ring finger. This court did observe that half of PW2's right hand ring finger was indeed missing. It is the evidence of PW2 that as the Accused cut his mother she was screaming and that after cutting her the Accused went to the home of their Auntie Joan who stayed in the same compound with them and that he followed the Accused to Joan's house where he saw the Accused place a table across her sitting room and that as she was running she fell down and the Accused then cut her where she had fallen down using a panga on the head, hands and back as he watched from the door way of the sitting room and that the Accused was holding a torch and he saw him well.

It is further the evidence of PW2 that after his father the Accused went to his grandfather's house also in the same compound and that his grandfather Sebitama Deo was opening the behind door of his house to run when the Accused using his

5 panga cut him on the head and on the stomach and that he (PW2) was watching this from his Auntie Joan's doorway and that he could see his father the Accused using the torch from his phone that he was holding. That after cutting his grandfather the Accused entered the house to look for his grandmother Boneconcila and that she was hiding under a rack where they keep utensils inside the house in front of their
10 bedroom and that he followed his father the Accused inside their grandfather's house and that the Accused asked him where his grandmother was but that he told him that he did know but that upon his returning inside the house the Accused cut his grandmother and he was only about 2 metres away from him and that he could see his father's face because he had a torch that he was using from his phone.

15 PW2 testifies that after this the Accused took him and his brother Isaac back to the house and stayed with them there until they heard people outside and that his father the Accused grabbed Berina (PW3) and pushed her inside their house saying you see what I have done and that this was at the door way where he had killed their mother and that he also took Nyiramugisha (PW1) to go and see those he had killed but that
20 she managed to escape from him and he did not see the Accused again that night until the Police came later that night and woke them up.

His evidence is well corroborated by that of Nyiramugisha Mangadalena (PW1) and Uwimana Berina (PW3) mother and daughter respectively who testified that on the night of the 24/09/2020 at about 9:00Pm upon Berina (PW3) receiving a phone call
25 about a fight at their grandfather's place the two of them moved to their grandfather sebitama's home and that when they got to the compound they met the Accused who was armed with a panga and torch that he flashed into their faces demanding to know what they were doing there in the rain;

That Berina (PW3) then hugged the Accused saying uncle you have come but that
30 the Accused pushed her saying go into the house and see I killed my wife myself.

5 According to PW3 she saw in the sitting room the wife of the Accused Mariserina and that she had blood all over her body and her head was split and that she ran out of the house. While according to PW1 the Accused took her to the house of his mother Boneconcila saying I have killed every one in this house come and I show you and that at the house of Boneconcila the Accused pulled open the bolt and that
10 the door opened and she immediately saw blood all over the sitting room and a body that she could not recognize and that the Accused was telling her let us continue take more steps but that she requested the Accused to release her hand and when he did so she ran followed by the Accused but that he tripped and fell and she was able to get away, both PW1 and PW3 testify that they ran to the home of one Sibomana the
15 son to PW1 who after hearing their narration was able to report the incident to the authorities that night.

The evidence presented by PW1, PW2 and PW3 has been very cogent and consistent. Irakiza (PW2) gave his evidence in a very candid manner and he was forth right in his testimony. His evidence that Nyiramugisha (Pw1) and Berina (PW3) came after
20 the Accused had finished killing the 4 persons was corroborated by PW1 and PW3.

The eye witness to the killings that took place on the night of 24/09/2020 and this at approximately 9:00PM was Irakiza (PW2).

The Supreme Court has laid down guidelines that Courts should consider when dealing with issues of identification and I will cite one such decision in **Nabulere & another** versus **Uganda SCCA No. 009 of 1978** reported in (1979) HCB 77 in
25 which the Court held that:-

“Where a case against the Accused depends wholly or substantially on the correctness of one or more identifications of the Accused which the defence disputes the Judge should warn himself and the assessors of the special need for caution

5 *before convicting the Accused on the identification or identifications. The reason for*
the special caution is that there is a possibility that a mistaken witness can be a
convincing one and even a number of witnesses can be mistaken. The Judge should
then examine closely the circumstances in which the identification came to be made
particularly the length of time, the distance, the light, the familiarity of the witness
10 *and the Accused. If the quality is good the danger of mistaken identity is reduced but*
the poorer the quality the greater the danger when the quality is good as for example
when the identification is made after a long period of observation or in satisfactory
conditions by a person who knew the Accused before, a Court can safely convict
even though there is no other evidence to support the identification evidence,
15 *provided the Court adequately warns itself of the special need for caution”*

The Accused in this case it is not disputed is the biological father of Irakiza (PW2) who testified that he was 11 years and therefore at the time of commission of the offence was about 8 years (2020). Irakiza (PW2) identified the Accused as his father in Court and testified that on the date in issue of the 24/09/2020 there was a torch
20 that his mother had which they were using for lighting and there was also light given off from the fire place in the kitchen.

PW2 also testified that the Accused had a torch with him that he kept flashing as he killed his victims and that he was able to identify him using this torch light. PW2 testified in a calm and collected way as to how he moved around following the
25 Accused from one house to another and watched how he was executing his evil plan. It is obvious that the killings did not happen in a flash because the Accused had to move to different houses in search of his victims. According to PW1 and PW3 the distance between their home and that of the Accused was about 10 minutes' walk. The time that the Accused spent with Irakiza (PW2) was well over 10 minutes
30 because one has to factor in the fact that PW3 did not receive a call immediately the

5 first killing commenced nor did she and PW1 move immediately and swiftly upon receiving the call.

It was a dark night and raining. Obviously their pace must have been slow and measured. PW2 informed this Court that when the Accused finished killing his grandmother Beneconcila he took him and his younger brother back to the house and
10 stayed with them inside the house until when PW1 and PW2 came and that he heard his father talking to them.

I have no doubts in my mind that Irakiza (PW2) had sufficient time to properly identify his father the Accused during the course of the murders and the touch that he was using from his phone provided sufficient light for identification given that it enabled
15 him locate his victims and properly inflict on them penetrating cuts that took their lives.

The evidence of Nyiramugisha (PW1) and Berina (PW3) that they saw the Accused face to face and that the Accused was holding a torch on one hand and a panga on the other and that they even spoke to the Accused who gloated about what he had
20 done to his wife and parents strongly corroborates the evidence of Irakiza (PW2). Nyiramugisha (PW1) and Berina (PW3) were both emphatic that they recognized the Accused on the night in issue with Berina even running to the Accused saying uncle you have come and giving him a hug before the Accused pushed her into his house to see her dead Auntie.

25 PW1 and PW3 struck me as truthful witnesses and I did not detect any deceit in their body language. The Accused also intended to give Nyiramugisha a guided tour of his father's house that is Sebitama Deo pleading with her to take more steps into the house but the sight of what met her could not allow her to continue further and she ran away,

5 The Accused was well known to Nyiramugisha (PW1) as a brother in law and also known to Berina (PW3) as her uncle and also spoke to them. I have no doubt that they properly identified the Accused that night and I completely rule out any possibility of error in his identification.

I do not accept the defence of the Accused that he was far away on the night in
10 question in Kyazanga.

Irakiza (PW2) testified that the Accused used to work in Kampala but returned that night and that he had not been seen during the day. Nyiramugisha (PW1) testified that Berina (PW3) hugged the Accused saying uncle you have come. All this evidence proves that while it is true that the Accused used to work away from home
15 on the night in issue he deliberately returned and sprung a surprise on his victims who were unaware of his presence.

Nvukyekure Cypriano (PW6) the LC I chairperson gave a graphic detail of what he saw at the scene on the night of the 24/09/2020 when he got to the home of Deo sebitama at around 12:00Am. According to PW6 he found in the house of the
20 Accused his wife Mariserina lying dead in the sitting room with cut wounds to the calf and that it was as if she had been trying to run and that she had cuts to the head and there was a lot of blood.

PW6 further testified that at the house of Sebitama Deo upon entering he found the daughter in law Nyiramahoro Joan the head was facing the door way and she had
25 been cut on the calf. On the head and her brain was exposed and that behind her way Boneconcila and further behind was Sebitama all of them were dead. PW6 testified that cultural restrictions prohibit him from seeing clan grandparents and as a result he would not detail their injuries.

5 The above notwithstanding the description of PW6 is corroborated in the post mortem reports carried on Exhibit P5, Exhibit P6, Exhibit P7 and Exhibit P8.

Further corroborative evidence was given by D/Sgt Eyatu Peter (PW4) the investigating officer who testified that the Accused on the 27/09/2020 at 6:30AM handed himself over at Kisoro Police Station as a murder suspect in the deaths that
10 occurred at Kagyeyo Village and that he was the one who received the Accused as the duty officer and ordered for his detention. This evidence contradicts that of the Accused who claimed that he was arrested at the bus park as he arrived from Kyazanga. The Accused is obviously telling lies about being arrested at the bus park. This is because the Accused was already in Kisoro on the 24/09/2020 as testified to
15 by eye witnesses in PW1, PW2 and PW3 who saw him. I accept the account of D/Sgt Eyatu (PW4) as being a true account that the Accused on the 27/09/2020 handed himself over to the Police as a murder suspect.

The Prosecution also presented IP Tukwasibwe Isdole (PW5) who testified that he took the Accused's charge and caution statement following all the required
20 guidelines and that the Accused voluntarily made his statement in which he admitted killing his wife Mariserina, his father Sebitama Deo, his mother Nyirakuhirwa Boneconcila and his sister in law Nyiramahoro Joan. The charge and caution statement was received as Exhibit P10.

It must be noted that this Court prior to PW5 giving his evidence asked Counsel for
25 the Accused whether the defence intended to challenge the statement and so required a trial with a trial but Counsel for the Accused informed this Court and I quote:-

"We do not intend to challenge the statement. I submit that there is no need for a trial with a trial. I have consulted with the Accused"

5 Indeed the only question put to PW5 at cross-examination was whether he was fluent in Rufumbira to which he replied positively indicating his place of birth as being within Kisoro District. As a result Exhibit P10 the charge and caution statement was admitted literally as uncontested.

I therefore reject the defence of the Accused later that he did not make any statement
10 at the Police.

I believe this to be an afterthought and roundly reject it.

The evidence presented by the Prosecution has been cogent and very consistent. The witnesses presented have been credible with very good recollections even 3 years later especially in the case of Irakiza (PW2). The only contradiction that I found in
15 the Prosecution case was the evidence of Irakiza (PW2) that his Auntie Joan Nyiramahoro was killed in a separate house from that of his grandparent's however D/Sgt Eyatu (PW4) and Nvukyekure (PW6) testify that the 3 bodies were all found in the same house.

I am inclined to accept the evidence of PW4 and PW6 that the 3 were killed in the
20 same house and not separate houses. I none the less accept the evidence of Irakiza that he witnessed all four murders carried out on that night by the Accused. The discrepancy in the evidence of Pw2 can be put down to his age and the passage of time.

The Court in **Alfred Tajar versus Uganda (1969) EACA** held that minor
25 discrepancies should be ignored if they don't affect the main substance of the Prosecution case.

I find therefore the discrepancy in the evidence of PW2 to be minor since it does not affect his testimony as to the participation of the Accused in the four murders.

5 The Prosecution it is my finding has discredited the defence of alibi put up by the Accused and he has been placed at the scene of the crime committing the crime.

After considering the evidence adduced by the Prosecution and the defence together it is my finding in full agreement with the assessors that the Prosecution has successfully proved its case beyond reasonable doubt and I find the Accused guilty
10 on all 4 counts of murder as indicted and accordingly convict him of the same.

Before me,

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SAMUEL EMOKOR
JUDGE
07/08/2023

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07/08/2023

Accused present

Senior State Attorney: Ainomugisha Christopher

20 Mr. Bakanyebonera Felix on State brief.

Assessors present

Clerk: Irumba.

Court: Judgment delivered in open Court.

Before me,

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SAMUEL EMOKOR
JUDGE
07/08/2023

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Prosecution: The Convict was involved in a killing spree. He killed 4 people, his wife, his parents both of them and sister in law. The circumstances show that his actions were premeditated his parents were of advanced age and he used of a lethal panga in executing his victims. We submit that the offence was committed in a
10 gruesome matter. We pray that since the death penalty is still valid this is one of the cases that qualify for death sentence.

The sentencing guidelines provide that the death sentence may be passed in exceptional circumstances of the rarest of the rare. **Direction 18** provides what constitutes the rarest of the rare and **18(a)** is to the effect that it indicates where the
15 Court is satisfied that it was planned or meticulously executed.

The Supreme Court in **Wandule Clement versus Uganda SCCA No. 0041 of 2017** the appellant had been indicted and convicted of death of 3 people. The Appellant unsuccessfully challenged the death sentence that was confirmed by the Supreme Court.

20 The Court held that a death sentence may be meted out in cases that are the rarest of the rare and cited **guideline 18(a)** of the sentencing guidelines.

It is our submission that this case falls within that category of cases that included his wife, parents and sister in law.

I therefore pray that Court be pleased to pass a death sentence in this matter. I so
25 pray.

Allocutus.

Mr. Bakanyebonera Felix: The convict in this case is 30 years old.

5 He is still a youth. He still has a lot of time to reform and be useful to this country.
The convict has 3 children who are now helpless. It is true that the deaths were
gruesome.

We pray that he be given a lesser sentence than the maximum prayed for by the
Prosecution.

10 We so pray.

Court: Do you still have something to say.

Convict: My lawyer has said it all.

Court: Sentence reserved for the 09/08/2023.

Accused further remanded.

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SAMUEL EMOKOR
JUDGE
07/08/2023

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REASONS FOR SENTENCE

The convict in this case stands convicted of a quadruple murder of his wife
25 Mujawimana Mariserina, his sister in-law Nyiramahoro Joan, his father Sebitama
Deo and his mother Nyirakuhirwa Benconcila.

The prosecution described the actions of the convict as being involved in a killing
spree. I would not agree more. It is the submission of the prosecution that the

5 convict used a lethal weapon a panga in the execution of his victims and that his victims died in a gruesome manner.

It is the contention of the prosecution that the death penalty is still a valid sentence in this country and that this is one of the cases that qualify for the death sentence. The prosecution submits that the **Constitution (Sentencing**
10 **Guidelines) (practice) Directions** provides that a death sentence may be passed in exceptional circumstances of the rarest of the rare. To buttress its argument the prosecution relied on the Supreme Court decision in **Wandubire clement vs Uganda SCCA no.41/2017** in which the court upheld and confirmed the decision
15 of the court of Appeal in which the appellant was convicted to suffer death for the murder of 3 persons and that the court considered the manner in which the same had been committed and after making reference to the sentencing guidelines concluded that the case fell within the category of the rarest of the rare of cases.

The prosecution therefore prays that this court be pleased to pass the death sentence.

20 The defence on the other hand prayed for mercy submitting that the convict being 30 years is still a youth capable of reform and a father of 3 children and who still require his care.

The circumstances of this case and the special modus operandi that the convict chose to carry out his killing frenzy makes one's blood to cringe. The convict who
25 was working in Kyazanga returned to Kisoro and made his way home in the night with the sole purpose of springing a surprise on his victims by arriving unannounced and he was indeed able to gain access to the home stead that his

5 family shared with his biological parents and sister in-law. What followed the convict's arrival is only good for a horror movie because the convict's actions were cold, callous and he showed complete disregard for human life. The vivid description of the killings carried out by the convict will remain etched in the minds of every one who had the fortune? Or was it misfortune? Of being in this
10 court room to hear his son detail the art work of his father the convict.

There appears to be no explanation for the conduct of the convict in the night of the 24/9/2020 when he took the lives of his wife both his parents and sister in-law. If evil does exist in this world, which I believe it does then the actions of the convict can only be described as pure evil.

15 I therefore fully appreciate the submissions of the prosecution in calling for the death sentence.

Guideline 17 of the sentencing guidelines provides that;

*“The court may only pass a sentence of death in exceptional circumstances in the rarest of the rare cases where the alternative of life imprisonment or other
20 custodial sentence is demonstrably inadequate”*

Section 18 of the guidelines outlines the circumstances under which a case is considered to be rare of the rarest of cases and this includes where the commission of the offence was planned or meticulously premeditated and executed.

25 This court has already carried out an analysis of the killings by the convict and the same falls squarely under the definition above.

5 The above notwithstanding this court is prepared to show the convict mercy which mercy he did not show any of his victims including his mother who he killed while still naked hiding under a rack in the house and his father who he cut down as he tried to escape through the back door of the house.

I will therefore consider imposing a sentence of imprisonment for life upon the
10 convict provided under **Guideline 23** and **24** of the sentencing guidelines.

Guideline 23 provides that;

“Imprisonment for life is the second gravest punishment next to the sentence of death”

The law **Revision (Penalties in criminal matters) miscellaneous**
15 **(Amendment) Act 2019** under section **4(1)** provides that;

“For purposes of any enactment prescribing life imprisonment or imprisonment for life, life imprisonment or imprisonment for life means imprisonment for the natural life of a person without the possibility of being released”

The convict will therefore live behind bars for the rest of his natural life and for
20 this he will always remember the lives of his father Sebitama Deo, his mother Nyirakuhirwa Benconcida, his wife Mujawimana Mariserina and his sister in-law Nyiramahoro Joan.

SENTENCE

For the reasons advanced above the convict for the offence of Murder is hereby
25 sentenced to imprisonment for life on each of the 4 counts.

5 The period spent on remand is of no consequence and as a result cannot be deducted.

The sentence will commence today the 09/08/2023

Right of Appeal explained within 14 days.

Before me;

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Samuel Emokor
Judge
09/8/2023

15 **09/08/2023**

Convict present

Senior State Attorney: Mr.Ainomugisha Christopher

Mr. Bakanyebonera Felix on state brief

Assessors present

20 **Clerk:** Irumba Muhoozi

Court: Sentence delivered in open court.

Before me;

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Samuel Emokor
09/08/2023
Judge