



**Republic v Gichamba (Criminal Case 72 of 2019)
[2024] KEHC 10345 (KLR) (Crim) (22 August 2024) (Sentence)**

Neutral citation: [2024] KEHC 10345 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE 72 OF 2019
K KIMONDO, J
AUGUST 22, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

GEOFFREY KIBI GICHAMBA ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on 8th May 2024.
2. He caused the unlawful death of his wife, Mary Waihera Kibe (hereafter the deceased). The offence occurred on 7th October 2019 at 05:00 hours at Kangemi estate in Nairobi.
3. According to their daughter (D1), on the previous night, the accused had demanded an early meal from his wife but she refused to prepare it. When she finally did, the accused declined it and retired to the bedroom.
4. The daughter was later woken up by screams from the deceased. She found the parents’ bedroom door locked. She screamed for assistance from neighbours who broke into the main house. By that time, the accused was standing in the sitting room next to his bedroom. The deceased was lying on the bed in a pool of blood with a deep cut-wound on the left side of her head. A bloodstained mattock was recovered from the scene.
5. The deceased was rushed to Kikuyu Mission Hospital where she was pronounced dead. The autopsy report by Dr. D. Kaburu (exhibit 1) confirms that the cause of death was “head injury due to sharp force trauma”. I find that it is consistent with the facts read out at the trial and admitted by the accused.



6. I have considered the mitigation tendered by his learned counsel, Ms. Chepsemba, and the pre-sentencing report filed on 24th June 2024 under the hand of Andrew Kanyutu, Probation Officer. The accused is an elderly man aged 65 or thereabouts. He has a drinking problem and would become violent and abusive when intoxicated. The situation deteriorated at some point to “depression and hallucination that led to institutional rehabilitation for 3 months”. All these factors affected his marriage which was exacerbated by disagreements over rental income and claims of infidelity.
7. The accused expressed remorse for his conduct and pleaded for leniency. He claimed to have reformed in prison and undergone counselling on anger management. He says he has sought forgiveness from his children and that he will relocate to Kikuyu Township to live with one of his brothers. One of his daughters, Gladys Wambui, says she was greatly saddened by the death of her mother but has since forgiven the accused. Her younger brother is mentally challenged and the burden of taking care of him has fallen on her lap.
8. The accused has served minor sentences before under community service orders. Alcoholism, unabated anger and violence led to loss of life in this case and caused unnecessary anguish to the family. The fact that he used a mattock causing deep comminuted depressed fractures to the head is an aggravating factor.
9. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Manslaughter is a grave felony and attracts a sentence of life imprisonment. The probation report recommends for a non-custodial sentence. But I think justice of the case demands a mixed custodial and probation sentence. This will afford the accused an opportunity to further introspect, get counselling and be re-integrated with the society.
10. I order that the accused shall first serve five (5) years’ imprisonment. The imprisonment shall run from 7th October 2019, the date when he was arrested and placed in custody. Thereafter, he shall be released on probation for a period of two (2) years under the care of the relevant probation officer to be appointed by the Probation and After-care Services. In addition, and in accordance with section 4 (3) of the *Probation of Offenders Act*, he must not commit another offence during his probation, in default of which he will be re-sentenced for the present offence.
11. The accused has a right of appeal to the Court of Appeal within 14 days and as per the *Rules* of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF AUGUST 2024.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

Ms. Dela for the Republic instructed by the Office of the Director of Public Prosecutions.

Ms. M. Chepsemba for the accused.

Mr. E. Ombuna, Court Assistant.

