



**Republic v Eyanae (Criminal Case E002 of 2022)  
[2024] KEHC 10143 (KLR) (14 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10143 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT LODWAR  
CRIMINAL CASE E002 OF 2022  
RN NYAKUNDI, J  
AUGUST 14, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ALBATROS EYANAE ALIAS KIKI ..... ACCUSED**

**JUDGMENT**

1. The accused person was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the charge were that on the 9<sup>th</sup> day of November 2021, at Sanya area within Kakuma Township in Turkana West Sub-County within Turkana County murdered Jackline Wori Juma.
2. At the hearing at the accused person pled not guilty. Thus it is therefore the duty vested with the prosecution to prove all the essential ingredients of murder beyond reasonable doubt. To prove its case, the prosecution led evidence from 8 witnesses. Hereinafter referred to as PW1, PW2, P3 etc. The accused person was represented at the trial by learned counsel Mr. Ondabu whereas the prosecution's case was led by Mr. Kakoi Assistant director of the Prosecution.
3. PW1 Everlyne Lokipu of Kakuma refugee camp testified that on 9<sup>th</sup> of November, 2021 she was asleep at home when at 5:00Am she was woken up by another lady by the name Nabenyio. She was then to be informed by Nabenyio that Jackline Juma, the deceased in this proceedings has committed suicide. In response to the distressed call, PW1 in company of
4. her sister and Nabenyio rushed to the home of the deceased where they found the husband standing outside the house and on opening they saw the deceased body lying on the floor. In cross examination PW1 he restated that the deceased and the accused were married and blessed with two children that prior to her death, the deceased had spent most of the day in her homestead. That became the last time when she saw the deceased alive.



5. PW2 Lina Nakong on oath testified that she is also a resident of Kakuma township and did highlight the events of 9<sup>th</sup> November, 2021 involving the deceased allegedly stated to have committed suicide. She therefore had to accompany the sister PW1 to the matrimonial home of the deceased where they were confronted with the accused standing outside their house as the lifeless body of the deceased was lying on the floor. In the presence of PW1 and the accused, a quick inquiry which was conducted pointed towards a deceased person who had been assaulted sustaining serious injuries, in which they concluded it was a police case. She was later to record a statement to be part of the investigations being conducted by the police.
6. PW3 Joseph Eipa who works with the forest department testified that on the 9<sup>th</sup> November, 2021 she heard people screaming to the effect that another man had killed a girl by the name Ajuma. He rushed to the scene but as at that time the deceased had passed on and the deceased was standing outside the scene of the murder.
7. PW4 Dickson Atori also a resident of Kakuma told the court that on the 9<sup>th</sup> of November, 2021 he saw PW1 and PW2 screaming following the information that the accused had murdered his wife. While at the scene, the fact of death of the deceased was established and the body was taken to the mortuary for a post mortem examination. According to PW4, he was one of the identifying witness at the post mortem forum.
8. PW5 Beatrice Arei in her testimony told the court that on the 12<sup>th</sup> November, 2021, she was at Lodwar when she received a phone call about the death of the deceased and her body being transported to Lodwar Referral Hospital for a post mortem examination. She was able to observe the body which had multiple injuries to the head and face.
9. PW6 Dr. Jonathan Bwaa Yaa told the court that he is based at Lodwar referral hospital and part of his duties is to conduct post mortems. PW6 gave evidence with regard to the post mortem conducted against the body of Jackeline Juma who was brought in with an history of having been assaulted at her matrimonial home. As a consequence of the post mortem PW6 testified that the physical observation showed lacerations to the right ear, left side of the chest, scalp hematoma with extensive injuries. As a result of PW6 examination he formed the opinion that the cause of death severe head injury to Subdural Bilateral Haemorrhage to blunt force trauma to the head.
10. PW7 Mary Erinit a resident of Lokichoggio testified that she is the mother to the accused who was married to the deceased. In her testimony PW7 further stated in court that on 8<sup>th</sup> November, 2021 the deceased had gone to her parent's home but never returned to the matrimonial home. It was the testimony of PW7 that the deceased took flight from the parent's home for fear of being further beaten by her mother. She alleged that during the material day, both the accused and the deceased spent at separate houses. When she woke up in the morning, she noticed that the house occupied by the deceased was locked from the inside. That is when she asked her son to open the door only to find the deceased dead with injuries to the head.
11. PW8 detective PC No. 11778 Harrison Sesi testified that following the report of a murder incident to Kakuma police station, he was tasked with the responsibility of investigating the circumstances which led to the death of the deceased. PW8 further told the court that he visited the scene, recorded witness statements, made arrangements to document the scene by means of photographs, the murder weapon allegedly used to inflict fatal injuries was also recovered in the course of investigation. In addition, PW8 confirmed to the court that the observation of the scene showed streams of blood from the door of the house to the location where the body was lying on the floor. He then made arrangements to have the body taken to Lodwar Referral Hospital for purposes of a post mortem examination. The other addition to the investigation was to have a wooden stick, a white school shirt, soil extracted from the



scene, a plastic container with cartridge tissues from the deceased and a buccal swab from the accused were all forwarded to the government analyst for a DNA profile. In the analyst report dated 25<sup>th</sup> April, 2023 and produced as Exhibit 5 the government chemist made the following findings:

“Based on the findings, the DNA profiles generated from the blood stains on the shirt (item “B”), soil (item “C”) and stick (item “A”) are identical and match the DNA profile of Jackeline Wori Juma (deceased)”

12. In a nutshell that was the case for the prosecution, at the close of which this court found the accused person with a case to answer. When called upon to defend himself, the accused opted to give evidence on oath.
13. DW1 Albatros Eyanae Alias Kiki testified to the effect that the allegation of having killed his wife on the 9<sup>th</sup> November, 2021 was false. That on the material day, he spent time with his parents and siblings. It was only in the night of 8<sup>th</sup> November, 2021 while spending a night in a different house besides the one they usually cohabit with the deceased, he heard screams from his mother’s homestead. He rushed to the direction of the screams only to be told that the deceased was inside lying on the floor. The police were informed and soon thereafter came to the scene, collected the body only to be arrested for an offence he did not commit.

#### **Analysis and determination**

14. This is an offence defined under Section 203 of the Penal Code which provides for murder envisaging the following ingredients which must be proven beyond reasonable doubt:
  - a. That there was death of Jackeline Juma
  - b. That the case of such death was unlawful
  - c. That the death was caused with malice aforethought.
  - d. That the accused is responsible directly or indirectly in causing the death of the deceased.
15. The standard of proof expected of the prosecution is well illuminated in the case of Miller Vs Ministry of Pensions 1947 2 ALL ER 373-375 thus;

“That degree is well settled. It needs not reach certainty, but it must carry a high degree of probability. Proof of beyond a reasonable doubt does not mean proof beyond the shadow of a doubt. The law would prevail to protect the community if it addressed forceful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remedy possibility of his favour which can be dismissed with the sentence of course, it doubts but nothing of that will suffice” see also *Woolmington vs DPP* 1935 AC 462, *Republic v Nyambura and four others* (2001) KLR 355 (Etyang J), *Semfukwe and others v Republic* (1976-1985) EA 536 and *Mbuthia v Republic* (2010) 2 EA 311.

16. In the case of *Joseph Kimani Njau v Republic* (2014) eKLR the court of appeal stated: -

“In all criminal trials, both the actus reus and the mens rea are required for the offence charged; they must be proved by the prosecution beyond reasonable doubt. The trial court is under a duty to ensure that before any conviction is entered, both the actus reus and mens rea have been proved to the required standard.....”



17. The predominant issue I have to resolve, is whether the accused before me caused the death of his wife. In this respect, the prosecution's duty is to prove all the ingredients beyond reasonable doubt.
18. With regard to the first ingredient, the law postulates, the prosecution to tender medical evidence especially the post mortem report. In this respect, PW6 produced a post mortem report indicating that the cause of death of the deceased was severe head injury to Subdural Bilateral Haemorrhage to blunt force trauma to the head. Similarly, PW1, PW2, PW3, PW4, PW5, PW7 and PW8 all visited the scene of the crime only to confirm the death of the deceased corroborating that evidence of the pathologist, PW6. Accordingly, the first ingredient has been proved beyond reasonable doubt.
19. Regarding the second ingredient, it is settled that all homicides are unlawful unless excused or justified by law as expressly stated in Art. 26(3) of *the Constitution* as read with Section 203 of the Penal Code. The evidence before this court reveals that between the 8<sup>th</sup> of November, 2021 and part of 9<sup>th</sup> November, 2021 the deceased was in good health as stated in evidence by PW4 but apparently in the course of the same date a lifeless body was found lying on the floor in the matrimonial home and the accused was standing outside in that particular homestead.
20. This evidence is clearly reflected in the testimony of PW1, PW2, PW3, PW4 and PW8 in building the perspective of the prosecution case in consonance with Section 107(1), 108 and 109 of the *Evidence Act*. These same witnesses on observation of the body of the deceased at the scene are in agreement that she had suffered serious physical injuries to the head and face which must have been inflicted by a third party. The post mortem report produced as Exhibit 1 dated 12<sup>th</sup> November, 2021 as signed by PW6 discloses the injuries suffered to the head, to the mouth, nostrils, lacerations to the right ear, left side of the chest corroborating the evidence by PW1, PW2, PW3, PW4 and PW8.
21. In the opinion of the pathologist, the cause of death was injury to the head due to blunt force. There was no any other evidence to suggest that the death was accidental, through natural causes or acts of God. In this respect of the death being unlawful the accused person who was found standing outside their own house which also happened to the murder scene made an attempt together with his mother PW7 to rely on an alibi defence but on weighing it with the prosecution evidence cited above, it fell short to rebut causation issues on the death of the deceased.
22. In the case of *Victor Mwendwa Mulinge vs. R* [2014] eKLR the Court of Appeal while addressing alibi defence stated:

It is trite law that the burden of proving the falsity, if at all, of an accused's defence of alibi lies on the prosecution; see *Karanja vs. R* [1983] KLR 501 ... this Court held that in a proper case, a trial court may, in testing a defence of alibi and in weighing it with all the other evidence to see if the accused's guilt is established beyond all reasonable doubt, take into account the fact that he had not put forward his defence of alibi at an early stage in the case so that it can be tested by those responsible for investigation and thereby prevent any suggestion that the defence was an afterthought.
23. In my view, this was a conspiratory theory between the mother and her son as an attempt to exonerate him from liability. Why do I draw this inference? The case for the prosecution was purely circumstantial. There was no eye witness to the murder but in totality, piecing together the prosecution typology circumstantially, the deceased's death was unlawfully caused. This court has taken the guidelines and circumstantial evidence to exercise discretion on the findings in this case. In the case of



Ahamad Abolfathi Mohammed and Another v Republic [2018] eKLR, the Court of Appeal had this to say on circumstantial evidence:

“However, it is a truism that the guilt of an Accused person can be proved by either direct or circumstantial evidence. Circumstantial evidence is evidence which enables a court to deduce a particular fact from circumstances or facts that have been proved. Such evidence can form a strong basis for proving the guilt of an Accused person just as direct evidence. Way back in 1928 Lord Heward, CJ stated as follows on circumstantial evidence in R v Taylor, Weaver and Donovan [1928] Cr. App. R 21: -

24. ‘It has been said that the evidence against the Applicant is circumstantial. So it is, but circumstantial evidence is very often the best evidence. It is evidence of surrounding circumstances which, by intensified examination is capable of proving a proposition with the accuracy of mathematics. It is no derogation from evidence to say that it is circumstantial.’

“Further, the conditions for the application of circumstantial evidence in order to sustain a conviction in any criminal trial have been laid down in several authorities of this court. Suffice to mention Abanga alias Onyango v. Republic CR. App NO. 32 of 1990(UR) in which this court held as follows:

25. “It is settled law that when a case rests entirely on circumstantial evidence, such evidence must satisfy three tests: (i)the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established, (ii) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused; (iii) the circumstances taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else.”

And in Sawe Vs. Republic [2003] KLR 364, the Court of Appeal amplified on the above thus:

“In order to justify on circumstantial evidence, the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused, and incapable of explanation upon any other reasonable hypothesis than that of his guilt. There must be no other co-existing circumstances weakening the chain of circumstances relied upon. The burden of proving facts that justify the drawing of this inference from the facts to the exclusion of any other reasonable hypothesis of innocence remain with the prosecution. It is a burden which never shift to the party accused.”

26. The second ingredient underpinned on circumstantial evidence has therefore been proved beyond reasonable doubt.
27. The third ingredient is that of malice aforethought has provided in Section 206 of the Penal Code. In order to establish malice aforethought, the prosecution must proof either that the accused had the actual intention to kill or to cause actual harm or the knowledge that his acts could likely cause death of grievous harm to another human being. It is well established that malice aforethought being a mental element in any criminal offence is difficult to prove for no man has the competence and capacity to read another human’s mind. However, in the scope of our legal system it can be inferred from the surrounding circumstances of the case such as the nature of the weapon used, the part of the body targeted, the manner in which the weapon was used and the conduct of the accused before and after the attack. See the case of Rex Tubere S/o Ochen (1945) 12 EACA 63.



28. For the foregoing, in the circumstances of this case, I am of the clear view that the events of the 7<sup>th</sup>, 8<sup>th</sup> and the 9<sup>th</sup> of November, 2021 point to a direction of an intent founded on knowledge of the probable consequences sufficient enough to satisfy the criteria in Section 206 of the Penal Code. The contributory evidence to this effect shows a husband and wife who are cohabiting together but with some ray of conflicts. The prosecution evidence alludes to the facts of the deceased having left the matrimonial home for her parent's home at one point in time.
29. This piece of evidence became the exploitative hypothesis by the mother to the accused PW7 and in her own defence while denying any involvement or participation with the death of his wife. Unfortunately, having gone through the material evidence of PW1, PW2, PW3, PW4, PW5, and PW8 put together cumulatively demolishes the alibi defence which was the cornerstone of rebuttal by the accused person. What is the significance of the prosecution case in so far as malice aforethought is concerned? First and foremost, it is not disputed that the above witnesses in response to the squeals and distressful alarms from the scene of the crime took immediate steps to establish the source and cause of that unfamiliar voices and screams. To their astonishment, the accused was standing outside his own house purportedly locked from inside and on forced entry, by the witnesses, the lifeless body of his wife was lying on the ground with multiple injuries. The witnesses including PW8 noticed a stream of blood from the door to the site where the body where the body was lying on the floor and next to it was a piece of a bloodstained wooden stick and soil recovered and extracted at the scene matched the DNA profile of the deceased.
30. The deceased body was subjected to post mortem examination which showed disclosed that he had suffered multiple injuries to the chest, right ear and the head. The cause of death was severe head injury. Is there evidence that it was caused by a fall on a blunt object? None of it exists in the factual matrix of this case both from the prosecution and the defence. Was the accused found within close proximity where the body was recovered? The answer is in the affirmative. Is there a chain of evidence to demonstrate that the wooden stick was used to inflict the injuries to the head as manifested in the post mortem report? Indeed, there is no dispute that this wooden stick on being subjected to the forensic analysis by the government analyst in his report dated 25<sup>th</sup> April, 2023 it did match the DNA profile of the deceased. What brings the accused within the provisions of section 206 of the Penal Code on malice aforethought? First and foremost, it is his conduct prior, during and after the killing of his wife on the 9<sup>th</sup> of November, 2021. This murder happened during the day. He pretended not to know that his wife was in the house. During the period of the first responders being PW1, PW2, PW3, PW4, PW5, and PW8 encounter with the accused he appeared to be a stranger as to the happenings and surroundings of such a heinous crime which had taken place in his own house.
31. It is trite that there are exceptions to the commission of a crime which call upon the accused person to provide some evidence under section 111 of the *Evidence Act* to matters which are within his own knowledge. This does not mean that the burden of proof ever shifts to the accused person. It constantly remains with the prosecution on behalf of the state. However, in this case, this was not just a neighbour, a relative, a visitor to that homestead but a husband to the deceased. The law expects him to shade some light on facts especially those within his knowledge. Incidentally, for the accused and his mother, such an obligation was met with a purported plea of an alibi. It is not foreseeable that the deceased was killed elsewhere and the accused be rendered as an accessory under the facts to hide the body of the deceased. It is therefore this court's finding that malice aforethought has defined in Section 206(a) and (b) of the Penal Code and as articulated in the case of *Rex v Tubere* (supra) the deceased's death was unlawful and actuated with malice aforethought. This ingredient as equally been proved beyond reasonable doubt.



32. The last ingredient, which is critical is whether the accused person before court caused the death of the deceased. The court in *Anjononi and others v Republic* (1980) KLR stated as follows:
- “..... This, however, was a case of recognition, not identification, of the assailants; recognition of an assailant is more satisfactory, more assuring, and more reliable than identification of a stranger because it depends upon the personal knowledge of the assailant in some form or other.”
33. Admittedly, PW1, PW2, PW3, PW4, PW5, and PW8 did not witness the accused assaulting the deceased. However, the chain of their circumstantial evidence placed the accused at the scene when simultaneously they stormed his house he was pleading ignorance of the offence but on further inquiry, his deceased wife’s body was just lying on the floor, bloodstains from the door being verifiable by the witnesses. I am inclined to accept the narrative by the prosecution witnesses for I find them to be credible and truthful. None had an interest to implicate the accused with such a heinous crime. There is no evidence as to who could have carried the body of the deceased and dump it in her own house. I find no contradictions and inconsistencies which are fatal to the prosecution case. Furthermore, it is the law that the fact that others may have assaulted the deceased cannot relieve the accused of responsibility or liability in absence to evidence to the contrary. For the foregoing, I find the prosecution has proved all the ingredients of the offence of murder contrary to section 203 of the Penal Code. The accused largely and substantially caused the death of the deceased. The upshot of it, I find the accused guilty of the murder of ALBATROS EYANAE alias KIKI and convict him accordingly.

### Verdict On Sentence

1. This is a sentence following a conviction of murder contrary to section 203 as punishable under Section 204 of the Penal Code. Ordinarily, the sentence prescribed for a murder charge is the death sentence. Its mandatory nature was however declared unconstitutional with the advent of the decision in *Francis K. Muruatetu v Republic* (2017) eKLR as it contravenes the provisions of Art. 25, 27, 28, 29 & 50 of *the Constitution*. The courts are now urged to consider the various objectives set therein, the mitigation by the accused together with the Judiciary Sentencing policy guidelines in coming up with a sentence commensurate to the accused’s moral blameworthiness.
2. Learned Counsel Mr. Ondabu mitigated on behalf of the accused person and stated that the accused person has been in custody since 2022. That he is remorseful and that he is a young man who went into alcohol and that is what led him to commit the crime. The Prosecution on the other hand stated that a deterrent sentence should be imposed and that the defence of intoxication was never raised.
3. The imposition of sentence ought not be a mechanical process where predetermined sentences are imposed for specific crimes. Given the unique nature and circumstances of each case, a sentence should be determined on its own merits. The factors as set out in the *Muruatetu* case should be considered. They are:
  - a. Age of the offender
  - b. Being a first offender
  - c. Whether the offender pleaded guilty
  - d. Character and record of the offender
  - e. Commission of the offence in response to gender-based violence
  - f. Remorsefulness of the offender



- g. The possibility of reform and social re-adaptation of the offender
  - h. Any other factor that the court considers relevant.
4. Besides the outlined factors, the Judiciary sentencing policy guidelines also recommend various objectives to be considered when sentencing an accused person. The objectives include: -
- a. Retribution: to punish the offender for his/her criminal conduct in a just manner.
  - b. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
  - c. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
  - d. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
  - e. Community protection: to protect the community by incapacitating the offender.
  - f. Denunciation: to communicate the community's condemnation of the criminal conduct.
  - g. Reconciliation: To mend the relationship between the offender, the victim and the community.
  - h. Reintegration: To facilitate the re-entry of the offender into the society.
5. The offence of Murder is a heinous crime. It is serious and has become prevalent. In summary, the facts of the case arose out of a domestic affair which turned sour.
6. When the deceased body was subjected to post mortem examination, it was established that she had suffered multiple injuries to the chest, right ear and the head. The cause of death was severe head injury. As noted in the judgment, this murder happened during the day. The accused person pretended not to know that his wife was in the house. During the period of the first responders being PW1, PW2, PW3, PW4, PW5, and PW8 encounter with the accused he appeared to be a stranger as to the happenings and surroundings of such a heinous crime which had taken place in his own house. The accused tried as much to have himself exonerated from charge but his defence of alibi would not stand as he was placed at the crime scene.
7. The imposition of a sentence is an exercise that requires the court to be objective using the well laid principles and the various factors. Each and every sentence should be individualized to meet the unique circumstances of each case.
8. In the matter of sentencing, though the court has unfettered discretion, it has to follow a pragmatic sentencing policy laid down by the judiciary in 2023 and the settled principles in our case law. So the various factors which play an important role in determining the award of an appropriate sentence are what the Supreme Court in Muruatetu referred to as the personality of the offender as revealed by his/her age, character, whether he has a previous conviction or is a first offender, antecedents and other circumstances of the offender likely to contribute to his/her rehabilitation, the nature of the offence and the manner in which the offence was committed. Therefore, the limits of judicial discretion is confronted with series of dicta in the ordinary sense and also the composite of the sentencing policy.
9. This case at hand can best be described as falling within the scope of gender based violence. The scale of femicide is of late at an astronomical level and many Kenyans are asking themselves, what has gone wrong in our society? I find the comparative jurisprudence in the case of S V Kasongo 2023 (1) SACR



321 epitomizing this global problem of unprecedented violence against women in Kenya. From the research conducted in South Africa, the court in highlighting the problem of gender-based violence remarked thus:

“That in explaining gender-based violence she said intimate partner violence was the most common form of violence that women experience, perpetrated by an intimate partner and the most common types were physical, sexual and emotional abuse. Gender-based violence explained the role of gender and power dynamics in the use of violence by men against women and girls. Male control was part of the gender-based violence. Male partner controlling behaviour was undisputed part of violence in intimate partner relations. This was described by women and included the male partner controlling the partner’s relationship with important others such as family and friends which was often the victim support system. Monitoring her a phone and communications with others was therefore a common behaviour reported by women. Stalking was part of the controlling behaviour and the motivation was to get information about the victim such as who she met. It was also a form of psychological abuse as stalkers made sure they were seen and used this as a threat.”

10. Besides Art. 26 of the Kenyan Constitution on the right to life, the protocol to the African charter on human and people’s rights on the rights of women in Africa also known as the Maputo protocol, prohibits gender based violence as part of women’s rights to life, integrity and dignity and security of the person. The 1948 universal declaration of Human Rights forms the most basic international foundation for combating violence against women. It lays out the rights and principles of equality, security, liberty, integrity and dignity of people including women. A review of the evidence in this case against the accused reveals that not only did he breach Section 203 of the Penal Code but also his unlawful act or omission was in violation of Art. 26 of *the Constitution* on the right to life and other international instruments as incorporated under Art. 2(5) & (6) of *the Constitution*.
11. I have given consideration to all the aforementioned factors as well as the decision in the case of Muruatetu. Additionally, I have considered the nature of violence against the deceased by the accused. The accused person was expected to take care of the deceased person as they shared an intimate relationship. Some of the key elements deducible from the facts of this case are that the accused person abused the trust bestowed upon him by the deceased and society at large. There is a legitimate expectation that a spouse or husband cohabiting with his wife has to inculcate a culture of trust, non-violence and ensure that the vulnerability of women in his house are protected as to their safety and security within the home environment. I always hear of submissions during the sentencing hearing that the accused has no previous conviction and regrets the offence therefore a suitable candidate for a non-custodial sentence. The import of it is that court must weigh between the aggravating and mitigating factors to establish which one is the most likely to attract a lot of weight to influence the final verdict of the offence. For each of these factors at least for the accused person, more weight is given to aggravating factors than the mitigation submitted by his counsel during the mini-trial on sentencing.
12. These key factors are of significance in exercising discretion, judiciously so, and taking all matters cumulatively to individualize the case against the accused, I have come to the logical conclusion that the accused person should serve 20 years in prison with a credit period of 2 years and 7 months being the period spent in remand custody pursuant to the provisions of Section 333(2) of the Criminal Procedure Code. In totality, the earlier order of being found guilty and convicted of the offence of murder contrary to section 203 is affirmed until otherwise reviewed or overturned by the Court of Appeal.
13. 14 days right of appeal.



**DATED SIGNED AND DELIVERED AT ELDORET THIS 14<sup>TH</sup> DAY OF AUGUST, 2024**

In the Presence of

Mr. Kakoi for the State

Mr. Ondabu for the Accused

Accused

.....

**R. NYAKUNDI**

**JUDGE**

