



**Republic v Nasiali (Criminal Case E004 of 2021)
[2024] KEHC 11230 (KLR) (26 September 2024) (Sentence)**

Neutral citation: [2024] KEHC 11230 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E004 OF 2021
SC CHIRCHIR, J
SEPTEMBER 26, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

LAMECK AKHONYA NASIALI ACCUSED

SENTENCE

1. The accused herein was convicted of murder , following a full trial. Thereafter this court directed the Director of Probation and after care services Kakamega County to conduct a social inquiry into the Accused’s background and the circumstances surrounding the offence. The parties also made their respective submissions.
2. Through his Advocate Mr. Shifwoka, the Accused told the court that he is a father of young children aged between 2-4 years and that he is their sole provider. He is apprehensive that his incarceration may make him miss out on his children’s upbringing.
3. He also submits that he is a first offender and has since gotten in touch with the victims family with attempts to reconcile. He prays for non-custodial sentence.
4. For the state, Ms. Osoro points out that the accused was tried and convicted of the offence of murder; that there were no circumstances that would have lent him even a partial defence; as evidence indicate that there was no provocation. The prosecutor further submitted that the victim was 17 years old and posed no threat to the accused. She urged the court to met out the full sentence, in appreciation of the sanctity of life.
5. I have considered the competing submissions of the parties as well as the social inquiry report. The report paints a picture of an individual, who is relatively ordinary from the general perspective of society. It is confirmed that he is a single father of two. The Accused informed the probation officer that both he and the victim were drunk and that it was an alteration that went completely wrong.



However this did not come out in his defence and therefore I would not consider this “admission” for purposes of this ruling.

6. Being remorseful and being a first offender are mitigating factors. It is true that his young children will be now vulnerable but such situation is not a mitigating factor. The age of the accused is 26 years, the Accused must have understood the consequences of his actions.
7. The victim was 17 years old. A very young life was lost. The motive behind her killing remains a mystery.
8. Every life is sacred and this is the message that should go out. It cannot be that one person ends another’s life and be allowed to casually move on as though it is the normal thing to do. Consequently the Accused’s plea of non-custodial sentence is not tenable in the circumstances.
9. Considering all the foregoing, I hereby sentence the accused to 20 years in prison. The sentence to take effect from 18th April, 2024 being the date of conviction.
10. Right of Appeal:- 14 days

DATED, DELIVERED AND SIGNED AT KAKAMEGA THIS 26TH SEPTEMBER, 2024.

S. CHIRCHIR

JUDGE

In presence of:-

Godwin Luyundi- Court Assistant

The Accused

Ms. Osoro for DPP.

