



**Republic v Rugu (Criminal Case E012 of 2022)
[2024] KEHC 11090 (KLR) (25 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11090 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E012 OF 2022
A MSHILA, J
SEPTEMBER 25, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

STEPHEN MURIITHIA RUGU ACCUSED

RULING

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; upon a Plea Bargain Agreement being entered this charge was then reduced to manslaughter;
2. The Plea Bargain Agreement was adopted by the court upon being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion of any kind;
3. The accused was charged with having unlawfully killed Eunice Wanja Githanga on the 12th March, 2022 at Riabai Shopping Centre in Kiambu East Sub County within Kiambu County;
4. The facts as read out by the Prosecuting Counsel are as follows; the deceased and the accused had lived together for seven (7) years; the deceased recently had a baby and was suffering from postpartum depression and the couple were not getting along; she wanted to go back to her parents house but the accused was not for it; On the material day she had attempted to burn the children’s Birth Certificates and the accused tried to stop her from doing so which led to a physical altercation; on the same night she sought refuge at her sisters’ home in Ithanga Dagoretti; she thereafter complained of constant headaches and after two (2) weeks was taken to Nazareth Hospital where she passed on whilst receiving treatment.



5. The post-mortem report revealed that the cause of death was a head injury arising from a compressed hematoma due to multiple blunt force trauma to the head consistent with assault; Prosecuting Counsel produced the Post Mortem Report which was marked as 'PEXh.1';
6. The accused stated that the facts as narrated were correct and the court proceeded to convict him on his own plea of 'Guilty' for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the [Penal Code](#);
7. The accused was represented by Learned Counsel Mr. Kamwara whereas Mr. Gacharia was the Prosecuting Counsel for the State; Both counsel were invited to make submissions before sentencing;
8. In mitigation counsel for the accused submitted that the circumstances leading to the death were not pre-meditated; his client had readily pleaded guilty at the earliest onset and thus saved on judicial time; his client was extremely remorseful and prayed for justice to be tempered with mercy; the prosecution had no previous records and that he be treated as a first offender; counsel prayed for a lenient sentence preferably a non-custodial sentence on the grounds that the accused was now a single parent and he had two young children; one was in aged 8 years old and a 3 year old and he was their custodian and sole breadwinner;
9. The deceased's family had come to terms with her passing on and they harboured no grudge and had since forgiven him and were awaiting for an appropriate time to perform the traditional rites to enable him to be accepted back to the community; during the pendency of the trial the children had been in their custody and the accused had continued to provide for the children and also provided for the deceased's parents;
10. For those reasons Counsel pleaded for leniency and urged the court to impose a non-custodial sentence to enable the accused to take care and provide for the children; Caselaw referred to [R v Tonny Kiptoo Chebon](#) [2024] KEHC 4778 (KLR) and [R v Joseph Gakio Mutua](#) [2014] eKLR;
11. Prosecuting counsel submitted that the life that once snuffed out was irrecoverable and it was imperative that the family of the deceased receives justice; the prosecution had no previous records of the convict but requested for a Victim Impact Assessment Report to assist the court in the sentencing.

Analysis

12. The applicable law on sentencing for the offence of manslaughter is found under the provisions of Section 205 of the [Penal Code](#) which reads as follows;

'Any person who commits the felony of manslaughter is liable to imprisonment for life'
13. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are that the accused's failed to exercise restraint during the domestic squabble which then led to a life being lost; The mitigating factors are circumstances leading to the unfortunate incident demonstrate that he had no premeditated intention; by accepting the Plea Bargain Agreement the accused had not wasted judicial time;
14. Other factors taken into consideration is the Victim Impact assessment Report called for which called for by this court; which was prepared and filed in court on the 5/07/2024; Having perused the Report it is noted that the accused had taken reconciliatory steps with the victims' family; his interaction with the family of the deceased demonstrates that he has a good relationship with them; it is noted that the family had come to terms with their daughters demise and had forgiven him and were waiting for an appropriate time to perform a traditional cleansing rite for his admission back to the community; also



during the pendency of the case the deceaseds' family had supported the accused by taking the children into their custody; they were;

15. The accused mourned the loss of his wife and has expressed his remorse; he is a young man aged 37 years and he has a very young family and was the sole breadwinner; lastly he is found to have no previous record and is deemed to be a first offender;
16. In the light of the mitigating factors this court is satisfied and that the accused is deserving of leniency and a non-custodial sentence;

Findings & Determinations

17. Having taken all factors into consideration this Court makes the following findings and determinations;
 - i. The accused is convicted on his own plea of guilty for the offence of Manslaughter;
 - ii. The accused is hereby sentenced to a three (3) year probationary sentence; The probationary sentence to be supervised by the Sub-county Probation Officer.
 - iii. In the event the accused breaches any of the terms and conditions of the Probationary Sentence he shall be re-arrested and shall serve the remainder of the sentence in prison.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 25TH DAY OF SEPTEMBER, 2024.

A. MSHILA

JUDGE

In the presence of;

Mourice – Court Assistant

Gacharia – Prosecuting Counsel for the State

Kamwara – for the Accused

Accused - present

