



**Republic v Munene (Criminal Case E005 of 2023)  
[2024] KEHC 16625 (KLR) (28 November 2024) (Sentence)**

Neutral citation: [2024] KEHC 16625 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
CRIMINAL CASE E005 OF 2023  
RM MWONGO, J  
NOVEMBER 28, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**MILLICENT WANGUI MUNENE ..... ACCUSED**

**SENTENCE**

1. Charge: The accused person is charged with the offence of Murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars are as contained in the Information dated 15<sup>th</sup> March, 2023 held in the file.
2. The accused initially pleaded not guilty to the offence. However, at the Pre-Trial Conference the accused initiated Plea-Bargaining Agreement engagement. A Plea-Bargaining Agreement (PBA) dated 24<sup>th</sup> October, 2024 and signed by the accused under the advice and counsel of the Defence Counsel and by the State Counsel for the DPP, was subsequently availed in Court on 24<sup>th</sup> October 2024 together with the Court Form for Recording of a Plea Agreement also dated 24<sup>th</sup> October, 2024.
3. In addition, attached to the PBA is the Post Mortem Report of the deceased dated 6<sup>th</sup> March, 2023.
4. The Court was satisfied that the accused had and has full capacity and competence to enter into the PBA; that she fully understood and understands its content and that she entered into and signed the PBA voluntarily.
5. Further, the Court was satisfied that the accused person on being taken, on oath, through her rights outlined in section 137F of the *Criminal Procedure Code* (CPC) she on oath answered Yes, confirming she understood her rights.
6. Accordingly, on 24<sup>th</sup> October, 2024 this Court recorded the PBA pursuant to Sec 137 CPC. The Plea Agreement was thus adopted as part of the Court record.



7. Accordingly, the accused person was convicted with the offence of Manslaughter contrary to Section 202 of the [Penal Code](#).
8. Under Section 205 of the [Penal Code](#) the punishment for Manslaughter renders the accused liable for imprisonment for life.
9. Mitigation: Directions on Mitigation having been given by the Court, and the Accused's mitigation having been filed and availed in writing, the Court has taken the same into consideration.
10. The Probation Officer's Pre-Sentence Report (POR): Dated 24<sup>th</sup> October, 2024 has also been availed.
11. The POR highlights are as follows: the accused is 65 years old. She committed the offence during a domestic fight at home. Her attitude towards the offence is that she regrets killing her husband, it was unintentional and she prays for leniency and forgiveness.
12. In particular, the Victim's family position is as follows: The children of the deceased loved their father despite his violent tendencies towards their mother the accused. They have forgiven her and are ready to welcome her to back home.
13. The POR concludes and recommends as follows: The offender is remorseful and regrets failing to control her anger. Her family is ready to cater for her material needs. The area chief is supportive of a non-custodial sentence. The Probation Officer's Report recommends a non-custodial sentence which she can serve under probation for the remaining period of her sentence.
14. The Court has taken into account the Judiciary Sentencing Policy Guidelines as amended and supplemented by the guidelines given by the Supreme Court in the case of [Francis Karioko Muruatetu & Another v Republic](#) [2017] eKLR.
15. The Court has also taken into account the holding in the case of [Julius Kitsao Manyeso v R](#) [2020] eKLR where the Court of Appeal held that a life sentence such as that mandated for manslaughter is indeterminate and unconstitutional. The Court held that such sentence constitutes an unjustifiable discrimination and is unfair and repugnant to the principle of equality before the law. As such the said sentence cannot be meted.
16. The Court notes the Factual basis of the Pre - Bargain Agreement which is as follows: On 27<sup>th</sup> February, 2023 the deceased, Peter Gichira Mugeru who is paralyzed remained at home while the accused went out to look for casual labour. After a long laborious day, the accused drunk beer at the market and returned home. At 1730 hrs she cooked ugali and sukuma wiki. She served her husband with the same but he was infuriated by her drunkenness.  
He threw the food and it spilled on the floor. Enraged, she took a panga and smashed him mercilessly with it. She left the scene and went to sleep. The deceased succumbed to the injuries at night. She then took the panga and hid it.
17. The Court notes from the information supplied by the DPP that no information is available on the accused past records. The state proposes a sentence of 10 years.
18. Time spent in prison: The Court has also taken into account the time spent in prison by the accused, being 20 months and 20 days between 15<sup>th</sup> March, 2023 and 28<sup>th</sup> November 2024.

## Disposition

19. Taking into consideration all the above matters, I hereby consider the appropriate sentence to be a custodial sentence with conditions. In [State v Truphena Ndonga Aswani](#) [2021] eKLR the accused



killed her husband during a domestic quarrel by slashing him with a panga in self-defence. The court after considering her mitigations and circumstances under which the offence was committed, and appreciating that every life is precious, she sentenced to serve non-custodial sentence of one-day imprisonment, to last at the end of the court session.

20. In the present case there was no self defence involved. Instead, the accused was intoxicated and filled with uncontrolled anger.
21. Accordingly, I sentence the accused to five (5) years imprisonment to take into account any period already spent in custody. The remaining term of her sentence shall after remission, be non-custodial and served under probation in community service at a place and in a programme to be designed by the Probation Officer. Such programme shall include counselling on anger management, self-control and on the dangers of alcoholism.
22. Orders accordingly.

**DATED AT KERUGOYA THIS 28<sup>TH</sup> DAY OF NOVEMBER, 2024**

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**R. MWONGO**

**JUDGE**

Delivered in the presence of:

Coram:

Before: Hon. Justice R. Mwango

Court Assistant: Mr. Murage

State Counsel: Mr. Mamba

Accused: Present in Court

Defence Counsel: Ms. Ndungu holding brief for Makworo

