



**Republic v Kimani & another (Criminal Case E015 of 2024)
[2024] KEHC 16000 (KLR) (19 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 16000 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CRIMINAL CASE E015 OF 2024
FN MUCHEMI, J
DECEMBER 19, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

MARGARET WAMBUI KIMANI 1ST ACCUSED

FRANCIS WAWERU NJOROGE ALIAS SYLIVENA 2ND ACCUSED

RULING

1. The 1st accused person pleaded guilty to a lesser charge of manslaughter following signing of the plea agreement that was filed in court on 5th November 2024. It was stated that the offence was committed on the 6th day of May 2024 at Kwihota Village in Ruiru Sub-County of Kiambu County.
2. The 1st accused person admitted that on the fateful day, she was accompanied by the deceased who was killed when she went to meet the 2nd accused. The 1st accused stated that the deceased was killed by the 2nd accused who smothered her.
3. On 5th May 2024, the mother of the deceased went to Karunguru market leaving the 1st accused person, her sister, with the deceased who was 8 years old. The 1st accused person protested to the child's mother request that she be left with the child as its mother went to run errands. The accused told her sister that she was going to meet her boyfriend, whom she had met on facebook. The 1st accused person late left with the deceased at around 5 pm and she called her sister to inform her that she was already at Eastern bypass where she had gone to meet the 2nd accused. The facts were that the 2nd accused was spotted with the deceased by a witness at Karuguru junction at Narok butchery standing in the middle of the road whilst it was raining heavily. The said witness stated that the deceased had deep cut wounds on her arm and when the witness offered to help them, the 1st accused declined. The mother of the deceased went back home and found her child and the 1st accused person not present. She called the 1st accused phone severally. It was much later in the evening the 1st accused person returned to her sister's house



without the deceased. A quarrel followed by a fight ensued between the 1st accused and the mother of the deceased. The 1st accused was arrested by members of the public and neighbours began searching for the deceased. The body of the deceased was later found on a rough road facing upward with her upper hand and wrist having deep cuts.

4. The 1st accused person pleaded guilty to the offence and said she was remorseful. The 1st accused person further stated that she has a young family and is the sole bread winner. Further in mitigation, the 1st accused said that her children may suffer and strain on basic needs if she is incarcerated.
5. In mitigation, the defence counsel Mr. Wambugu told the court that the 1st accused person was remorseful and requested for the court's leniency. Further that the 1st accused person was a mother of two minors who are currently under the care of her elderly mother. It was further stated that the 1st accused person was a first offender who found herself on the wrong side of the law.
6. The prosecution stated that the 1st accused person is a sister of the deceased's mother and as a family they were yet to come to terms of the incident. The prosecution stated that the victim's family did not wish for the 1st accused person to be released to the society as she may go home and harm them. The prosecution asked the court to impose a custodial sentence that is deterrent enough as the deceased was a minor and was killed for no fault of his own.
7. The pre-sentence report dated 2nd December 2024 provided that the 1st accused person does not have family ties with her other siblings and she is known for excessively drinking alcohol and her children are in the care of their grandmother due to her irresponsibility. The report further indicates that the 1st accused's family strongly oppose any sort of leniency and expressed fear that if the 1st accused person is released, she might harm other members of her family. The report further indicates that the victim's family is still hurting from the loss and the deceased's mother prays that the court grants her the maximum custodial sentence.
8. I have considered the factors set out in Judiciary Sentencing Policy in regard to sentencing and the mitigation of the 1st accused person. In my considered view, a non-custodial sentence will not be appropriate having regard to the circumstances of the offence. An innocent child's life was lost for no reason. No explanation was offered as to why the 1st accused person took the child with her to meet a man. A deterrent sentence is appropriate in this case for would be offenders to discourage senseless killings. However this court considers that by the act of pleading guilty to the offence, the 1st accused person saved the precious time of the court. This is a factor that the court must take into account in mitigation of sentence.
9. The record shows that the accused has been in custody since the day of her arrest being 6th May 2024. Pursuant to Section 333 (2) of the Criminal Procedure Code, the court will take into account this period in sentencing the 1st accused.
10. The 1st accused is, therefore, sentenced to serve fifteen (15) years imprisonment to commence from the date of arrest being May 6, 2024.
11. It is hereby so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT THIKA THIS 19TH DAY OF DECEMBER 2024.

F. MUCHEMI

JUDGE

