



REPUBLIC OF KENYA



**Republic v Muciimi (Criminal Case E020 of 2022)
[2023] KEHC 847 (KLR) (24 January 2023) (Judgment)**

Neutral citation: [2023] KEHC 847 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL CASE E020 OF 2022
LW GITARI, J
JANUARY 24, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

NICHOLAS MWITI MUCIIMI ACCUSED

JUDGMENT

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. It was alleged that on 30/9/22 at around 18.30 hours at Ntabuta village, Kereria Sub-Location, Matakiri Location Tharaka South Sub-County within Tharaka Nithi County unlawfully murdered Geoffrey Muriungi Makara.

The accused person denied the charged and the case was fixed for hearing. However, today (24/1/2023) when the matter came up for hearing, he entered plea bargaining negotiations with the State and a plea agreement was filed in court. Under the plea agreement, the accused agreed to plead guilty to a lesser charge of Manslaughter, contrary to Section 202 as read with Section 205 of the *Penal Code*.

2. The plea agreement was accepted by this court and upon being formally charged the accused pleaded guilty to the charge. A plea of not guilty was therefore entered.
3. The State proceeded to give the facts of the case as follows:-

The circumstances surrounding the case are that on 30th day of September, 2022 at around 18.30 hours at Ntabuta village Kereria Sub-Location Matakiri location of Tharaka South sub-county Tharaka Nithi County, Geoffrey Muriungi Makara was killed by Nicholas Mwiti Muciimi alias Nthiga after they picked a quarrel over a debt of fish. Prior to incident on the 28th day of September, 2022 Geoffrey Muriungi (deceased), Nicholas Mwiti Muciimi (accused) and Abraham Manyaki hired a fishing net from Kagendo wa Njeru for Kshs.100/- which payment should be divided among the three whereby Geoffrey Muriungi (deceased)



paid Kshs.40/-. Abraham Manyaki paid Kshs.30/- and the remaining was to be paid by Nicholas Mwiti (accused) which he refused to pay after they came back from fishing and he said that they catch less fish and that one does not warrant the payment of the net as earlier agreed. On 30th day of September, 2022 the deceased and the accused met at Ntabuta village in the local brewer, there were also other people taking brews and the accused alone had gone for fishing that day and come with some fish to the area where people were taking local brew and started selling the fish. The deceased picked a quarrel with accused over the balance of Kshs.30/- for the net and all of a sudden the accused picked a panga and cut the deceased at the neck killing him instantly. The suspect ran away to hide. The team from DCI and officers from Marimanti Police Station visited the scene. The scene was processed, photo graphed and documented and the body taken to Marimanti Level 4 Hospital awaiting autopsy. Search was also conducted in the home of the accused where they managed to recover a panga with a blood stain which was used to commit the offence and was kept as exhibit. The following morning 1st day of October, 2022 at around 0600 hours the suspect Nicholas Mwiti Muciimi alias Nthiga accompanied by the Matakiri Location Chief Emmanuel Njeru surrendered himself to Marimanti Police Station where he was re-arrested and placed in cells. On October 10, 2022 the postmortem was conducted and the cause of death was as a result of excessive bleeding caused by a sharp object. Statements were also recorded from eye witness and the accused was later arraigned in court to face a charge of murder which has been reduced to manslaughter following a plea bargaining agreement.

The accused readily admitted the facts of the case and he was found guilty as charged then convicted accordingly.

4. The State urged the court to treat the accused as a 1st offender. In mitigation the accused urged the court to find that he is a family man and the sole bread winner of the family and that some of his children are in school. He informed the court that he was drunk when he committed the offence and did not intend to cause the death of the deceased. He urged the court to consider that he presented himself to the police and today he has pleaded guilty and saved the court's judicial time. He therefore pleads for leniency.

I have considered all the circumstances of this case. I find that the attack on the deceased arose from a quarrel. It is clear that the offence was not pre-meditated. The offence is however serious as an innocent life was lost. The injury inflicted was severe and led to death of the deceased. I note that the accused has pleaded guilty and saved this courts judicial time. However, a punishment to discourage this kind of behaviour is called for. I sentence the accused to serve ten (10) years imprisonment. The sentence to run from 17/10/2022 when he was remanded in custody to await trial.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 24TH DAY OF JANUARY 2023.

L.W. GITARI

JUDGE

