



**Republic v Mwangangi (Criminal Case 6 of 2020)
[2023] KEHC 750 (KLR) (24 January 2023) (Judgment)**

Neutral citation: [2023] KEHC 750 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL CASE 6 OF 2020
LW GITARI, J
JANUARY 24, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

SILAS MUGAMBI MWANGANGI ACCUSED

JUDGMENT

1. The accused person 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 March 1, 2020 at Gantanjia village Gakurunguru Location, Tharaka South Sub-County within Tharaka –Nithi County, murdered Grace Karigu Muthuri.
2. The accused person denied this charge and the prosecution proceeded to call six witnesses in support of their case. The court considered the evidence and found that there was sufficient evidence to warrant the accused to be called upon to give his defence.
3. It is at that stage that the accused offered a plea agreement with the state. The state accepted that offer of a plea agreement. The accused and the state signed a plea agreement as a result of which the charge was reduced to manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) with particulars that the accused unlawfully killed Grace Karigu Muthuri.
4. The accused pleaded guilty to the charge and was accordingly convicted on his own plea of guilty. The facts of the case were given in the plea agreement as follows:

Facts:

5. The facts of this case are that on March 1, 2020 around 8.30. am, the deceased contracted the accused and another person by the name Elizabeth Gathuthi Njeru to assist her prepare her *shamba* for planting season at a cost of kshs 300 per person. The three then left to the said *shamba* carrying *pangas* and



jembes and in addition, the accused carried a jericin of 10 lites of traditional liquor called Mughacha and the deceased carried a three empty cups which they were to use for drinking the said brew. As they were leaving the deceased's homestead they left her 3 children at home doing other chores. On arrival at the shamba the accused served the two ladies with a cup of alcohol and they started working on the shamba up to 12 noon when they got tired and decided to have break. While sitting down they drunk the remaining brew (*mughacha*) and it got finished.

6. At that point the accused started demanding for food from the deceased and she informed him that there was no food and that she was not his wife to cook for him. That angered the accused and a quarrel ensued and the accused immediately picked up his *panga* and attacked the deceased on the left hip, rib and on the neck in the presence of his co-worker who by then was screaming for help. The deceased died on the spot and the accused pursued his co-worker who ran away while screaming. A report was made in the police station and the body was removed to the mortuary. Meanwhile the accused disappeared from the scene and was arrested five days later from his hide out at Muthana area where he was arrested at his friend's homestead where he was found hiding in a sack and taken to Tunyai police station and later charged with the offence of murder.
7. Postmortem was conducted on the body of the deceased and the pathologist formed an opinion that the cause of death was due to cardiopulmonary arrest due to blunt trauma on the neck.
8. The accused offered his mitigation and stated that he is remorseful, that he is an elderly man who is seventy four years old. That he may suffer if incarcerated for long. That the court to consider that he has been in custody since the year 2020.
10. The state informed the court that the accused is a first offender. I have considered plea agreement, that accused is a first offender and the mitigation. The facts of the case show that the actions of the accused were not pre-meditated. He had no intention to cause the death of the deceased but it was unfortunate that his actions led to the death of the deceased. This is no doubt a serious offence which needs to be discouraged. The offender must be ready for the consequences of his actions. I have considered the probation officer's report which shows that the situation of the accused is quite pathetic and he has various needs which may require interventions by the family and the state. Taking all these factors into consideration, I sentence the accused to serve six (6) years imprisonment. Half of the sentence, that is three years, shall be served on probation. The remaining three years will be served in prison. The accused has been in custody since April 6, 2020 which is equal to two (2) years and eight (8) months. The sentence of the imprisonment shall therefore be reduced by two years and eight months. The period of remission of sentence shall also be considered. Having considered the period served and that he was entitled to remission, it means he has served the sentence of imprisonment he will be released to start the probation sentence.

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

L W GITARI

JUDGE

24/1/2023

The judgment has been read out in open court.

L W GITARI

JUDGE

24/1/2023

