



**Republic v Gichira & 2 others (Criminal Case 3 of 2016)  
[2023] KEHC 20363 (KLR) (30 May 2023) (Judgment)**

Neutral citation: [2023] KEHC 20363 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
CRIMINAL CASE 3 OF 2016  
RM MWONGO, J  
MAY 30, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**GRACE NJERI GICHIRA ..... 1<sup>ST</sup> ACCUSED**

**DENIS IRUNGU WAWERU ..... 2<sup>ND</sup> ACCUSED**

**ROBERT NYAGA JOSEPH ..... 3<sup>RD</sup> ACCUSED**

**JUDGMENT**

1. The 1<sup>st</sup> Accused Grace Njeri Gichira was charged with the offence of Murder Contrary to Section 203 as read with Section 204 *Penal Code*. The particulars of the offence are that on the night of 6<sup>th</sup> and 7<sup>th</sup> day of February, 2016 with others not before court at Mburi village, Rwambiti sub-location, Baragwi Location in Kirinyaga County unlawfully murdered Pharis Muthike Njuki.
2. The accused was arraigned in court on 25.2.2016 and she pleaded not guilty to the offence on March 16, 2016.
3. On November 29, 2022, the defence proposed a Plea Bargain Agreement. The matter was given a date for Plea Bargain Agreement settlement on March 9, 2023 to give the parties time to consider the proposal.
4. On March 9, 2023, the parties availed the signed Plea Agreement pursuant to Section 137A (i) and 137B of the *Criminal Procedure Code*.

The Plea Bargain Agreement dated March 6, 2023 was adopted by the court pursuant to Section 137G of the *Criminal Procedure Code* on December 12, 2023. Further, the court being satisfied that the 1<sup>st</sup> accused had understood the contents and that she had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion.



5. The brief facts of the case are that on the night of 6<sup>th</sup> and February 7, 2016 in Rwambiti sub-location, Kirinyaga west sub-county, the 1<sup>st</sup> accused was with the deceased and the two co-accused persons Denis Irungu and Robert Nyaga. She said to have had an argument with Robert Nyaga who had been on a mission to kill her as she had received death threats before. It was at this point that he went to the bedroom and she could hear some struggle between the deceased and the third accused. She explains that she witnessed the accused being killed using an axe and his body removed from the house by the same person. She claims not to have raised an alarm during the incident. She alerted the 2<sup>nd</sup> accused to flee but he refused. She was arrested the following morning.
6. The Post mortem report dated February 10, 2016 written by the medical officer Kerugoya County Referral Hospital, Dr. Karomo indicated the cause of death was of death was due to cardiorespiratory arrest secondary to massive internal and external bleeding after assault by a heavy blunt object.
7. The Prosecution submitted that the accused had a troubled marriage and the incident involved her minor child. He recommended that she be placed in an anger management program for 2 years. Further, she has a minor who is in form four and wholly dependent on her.
8. Through Counsel the 1<sup>st</sup> Accused Grace Njeri Wachira was remorseful and prayed for leniency; she is a 1<sup>st</sup> offender, aged 48 years and a mother of 3 children with the youngest being a form four student and wholly depend on her; She has been in custody from February 7, 2016 until last year when she was released on bond; She has been rehabilitated while in custody.
9. The Probation officer's Report dated November 29, 2022 indicates accused is 48 years of age and is a sixth born among seven siblings. She married the deceased in 1994 and had three children. The couple was involved in constant domestic fights as they fought over family property. After released she was able to integrate with the society and her community was not opposed to her release. The circumstances of event show that she was acting in self-defence. The report recommends accused as suitable to serve non-custodial sentence by way of a probation order; Recommends Counselling in Conflict Management, Anger Management, and to be facilitated in reconciliation.

### **Sentence**

10. This is an appropriate case for a non-custodial sentence. Accused is sentenced to serve three (3) years during which time she shall:
  - a. Serve a Community Service at Mururi Police Patrol Base in a programme designed by the Probation Officer under the supervision of the officer in charge of the Police Base.
  - b. She will attend a programme of counselling in anger and conflict management designed and facilitated by the Probation Officer.
  - c. The Probation Officer shall maintain a record of the accused's attendance at Community Service and in counselling, and such report may be called upon by the court at any time.
11. Orders accordingly.

**DATED AND SIGNED THIS 30<sup>TH</sup> DAY OF MAY, 2023.**

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**R. MWONGO**

**JUDGE**

Delivered in the presence of:



Mamba - for state.

Ndungu - holding brief for Makworo for 1<sup>st</sup> & 2<sup>nd</sup> Accused.

Murage, Court Assistant.

