



**Republic v Morara (Criminal Case 35 of 2018)
[2023] KEHC 17869 (KLR) (30 May 2023) (Sentence)**

Neutral citation: [2023] KEHC 17869 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE 35 OF 2018**

**J WAKIAGA, J
MAY 30, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

AMOS NYAKANGO MORARA ACCUSED

SENTENCE

1. The convict was initially charged with the offence of Murder to which he pleaded not guilty. By a plea agreement entered into between the convict and the State and accepted and recorded as such by the Court on the 22nd day of February 2023, the said charges were reduced to Manslaughter to which he pleaded guilty and was convicted on his own plea of guilt.
2. In compliance with the judiciary sentencing policy guidelines, the Court called for pre-sentencing report and invited the convict to offer mitigation. In mitigation it was contended that the convict was married with one child to whom he was the sole breadwinner. It was stated that the same was a peaceful man who was well spoken of by the local administration. He had come to Muranga from his County to work as a tea picker and was remorseful of his action.
3. From the pre-sentencing report, it was stated the accused and the deceased used to work together in the same area though not friends. On the material day the brother of the deceased requested the convict to lend him Kshs. 1,000/= which he was to refund in the evening and when he went to the house which he shared with his brother the deceased, he came out and attacked him. The offender went left him and went his way. Later when he was called to go for his money, because of the earlier confrontation, he decided to carry a panga for self-defence and when the two brothers attacked him and a fight ensued, in the process he hit the deceased with the panga and ran away from the scene.



4. It was stated that he never intended to kill the deceased and that he ran away because of fear. His family spoke well of him and pleaded for a lenient sentence as they were willing to help him settle back into the community.
5. On the community attitude, it was alleged that he was among the group of youth who used to terrorize the local community and that he was arrested as he was about to flee the area and that his relatives went back to their home County after the incidence, where the local chief has confirmed that he had no criminal history.
6. On the victim, the father stated that he was hard working having dropped out of class seven and was unmarried at the time whose loss was hard on them and were therefore opposed to any form of leniency.
7. In mitigation Ms Kimani sought for a lenient sentence stating that the accused was married with a young child and was remorseful. Ms Muriu for the stated that the Court should consider the circumstances of the offence.

Determination

8. The sentencing objectives are now well settled in Kenya having been captured in the Judiciary Sentencing Policy objectives as follows:
 - a. Retribution – to punish the offender in a just manner for his criminal conduct
 - b. Deterrence – to deter the offender from committing a similar offence
 - c. Rehabilitation – to enable the offender to reform
 - d. Restorative –to address the needs arising from the criminal conduct such as loss and damages
 - e. Community protection – to protect the community by incapacitating the offender
 - f. Denunciation – to communicate the community condemnation.
9. While sentencing the offender the Court is to be guided by the following principles: the sentence mated must be proportionate to the offence, same sentence should be imposed for the same offence and both the offender and the victims must participate in the process.
10. Having taken into account the mitigation by the convict, the presentencing report, including the victim’s family sentiments and the fact that the convict is remorseful as evidenced by the fact that he entered into a plea bargain agreement with the state, I have come to the conclusion that a rehabilitating sentence will serve the justice of this case and consequently sentence the convict to a probation term of three (3) years at his home County during which he shall be rehabilitated and settled in society and it is ordered .

DATED, SIGNED AND DELIVERED AT MURANGA THS 30TH DAY OF MAY 2023

J. WAKIAGA

JUDGE

In the presence of:

Mr. Kirua for J.K. Kimani for Accused

Jackline – Court Assistant

