



**Republic v Manasi (Criminal Case 6 of 2013)
[2023] KEHC 23104 (KLR) (29 September 2023) (Sentence)**

Neutral citation: [2023] KEHC 23104 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 6 OF 2013
SC CHIRCHIR, J
SEPTEMBER 29, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

JOHN LARRY MANASI ACCUSED

SENTENCE

1. The Accused person herein was convicted of the murder by Justice Musyoka on March 24, 2023. The matter has been placed before me for sentencing as the Hon. Judge has since gone on transfer. The Judge had also ordered for the preparation of pre-sentencing which has since been filed. I will proceed to consider the said pre-sentencing report and the respective submissions by the parties herein.

Presentencing Report

2. According to the probation officer, the Accused's family spoke well of him and have prayed for his release.
3. The victim's family however insist that the Accused had been a habitual domestic abuser even before the commission of the crime, and pray for a deterrent sentence. The chief corroborated the victim's family reference to past domestic abuse of the victim.
4. The community's reaction upon the commission of the offence was to burn the accused's house. It considers the Accused a temperamental individual.

Accused Submissions

5. Through his counsel, Mr. Mulama, the Accused told the court that he is remorseful; that he is the sole breadwinner for his family and that, in particular, his elderly mother has been left without due care.



That he is 50 years old and thus in the category of a “senior citizen”; the Accused further submits that he has behaved well while in custody.

6. The counsel then proceeded to set out the purpose of punishment and went on to demonstrate how each of those purposes have served by the 10 years that the Accused has spent in custody. He prays that he be treated as a first offender and the 10 years spent in custody be taken into consideration, in any event.

Prosecution’s Submissions

7. Ms. Osoro for the state has argued that for the 10 years that the Accused was in custody, he was not serving sentence, rather he was simply in remand awaiting trial.
8. The counsel further wishes the court to take judicial notice of the prevalent nature of domestic violence and the need for a deterrent sentence.
9. The prosecution further submits that punishment should have an unpleasant outcome as that is how future deterrence for any such conduct can be achieved.
10. It is further submitted that punishment should also serve the purpose of social order and that the sentence should be one which would help the state achieve social order.
11. Counsel further submits that whereas the state is not asking for death penalty, which is otherwise the prescribed sentence for murder, it is asking for a sentence that would act as a deterrent to those who intend on taking life.
12. On the pre-sentencing report, the prosecution observes that it has focused on the family of the accused while less attention has been given to the voice of the victim’s family.
13. It is further contended that the punishment that this court should be one that would act as a “ pay - back” to the society and that contrary to the Accused’s assertion , remand period did not serve that purpose.
14. The prosecution further insists that no skills are learned during the remand period, and that any skills can only be acquired when serving sentence and that the accused will then get a chance to pay back to the community.

Determination

15. I have considered the submissions of the parties as well as the presentencing Report. Section 204 of the *Penal code* prescribes death penalty for the offence of murder. However the supreme court in *Francis Kariuki Muruatetu & Ano vs Republic* [2017] eKLR has given lee way to the courts to mete out any lesser sentence if the situation warrants.
16. It has been submitted that the Accused is remorseful and a first offender. The accused has also submitted that he is the sole provider of his siblings and parents. According to paragraph 23.8 of the Kenya Judiciary Sentencing Policy Guidelines, all the above considerations are mitigating factors.
17. However, I agree with the prosecution that the sentence meted out must speak deterrence as well as the reaffirm the sanctity of life.
18. I have not also lost sight of the fact that this was a case of domestic violence, and the sentence must be one which will deter any such future conduct.



19. Considering both the aggravating and mitigating factors, I hereby sentence the accused to 35 years imprisonment. The sentence will run from January 25, 2013, being the date of his first arraignment in court.
20. Right of Appeal 14 days.

DATED SIGNED AND DELIVERED IN OPEN COURT, AT KAKAMEGA THIS 29TH DAY OF SEPTEMBER 2023

S. CHIRCHIR
JUDGE

