



**Republic v Chumba (Criminal Case 4 of 2023)
[2023] KEHC 23094 (KLR) (28 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 23094 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE 4 OF 2023
RB NGETICH, J
SEPTEMBER 28, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

EVANS KIPRONO CHUMBA ACCUSED

RULING

1. The accused Evans Kiprono Chumba had been charged with the offence of murder contrary to section 203 and 204 of the Penal Code. The particulars of the charge being that, on the October 8, 2020 at Seguton village, Seguton Location in Koibatek Sub-County within Baringo County the accused murdered Janeth Chepkogei.
2. On June 5, 2020 the charge was read over to the accused who denied the charge and the matter was set down for full hearing. However, on the January 26, 2023 when the matter came up for hearing before Honourable Justice T Matheka, the defence counsel Mr Mongeri informed the court that although the matter is coming up for hearing, they had written to the Office of Director of Public Prosecution for plea bargaining on November 24, 2022. The court then set a mention date for February 15, 2023 for purposes of confirming the progress on the plea bargain. On July 13, 2023 the charge was reduced to manslaughter following a plea bargain agreement.
3. On the July 13, 2023, the charge and its particulars were read over and explained to the accused who pleaded guilty to the offence of manslaughter as provided for under section 202 as read with section 205 of the Penal Code and was convicted on his own plea of guilty.

Brief facts of the case

4. The brief facts of the case is that on the October 8, 2020 at around 0100hrs the deceased was in her single room house behind Mchakato bar in Seguton trading centre together with her boyfriend Evans Kiprono Chumba when they quarreled over love issues following suspicion by the accused that the



deceased had love affair with one Walter Ruto Cheon; the quarrel escalated leading to accused stabbing the deceased severally to her death.

5. After committing the act, the accused called the deceased's friend one faith Jemutai Kemboi and informed her that he had killed the deceased and wanted her to go and see for herself. The accused then passed by the house of one Boaz Kiplagat Ruto knocked the door but was ignored since Boaz assumed he was drunk and was there to disturb his sleep.
6. The accused then proceeded to Timboroa Police Station where he met CI Daniel Kadei the officer in charge of station who was on routine visit to the station and informed him that he had just killed her girlfriend and the body is in her house at Seguton Trading Centre. He said he used a sharp knife to stab her severally to death due to her love affair with Walter. The OCS recorded the information and together with four of his officers accompanied the accused to where the body of the deceased was; they found the body of the deceased on the bed in her house. The officers observed the body, processed the scene and recovered the murder weapon which was a long sharp knife and a kitchen knife which the accused claimed the deceased used to defend herself; they also recovered a wooden frame which the accused claimed Walter Ruto used to hit him on the face before escaping together with blood-stained beddings of the deceased.
7. The body of the deceased was then moved to Eldama Ravine sub-county hospital mortuary where postmortem was conducted and the accused was taken back to police station and charged with the offence of murder now reduced to manslaughter following plea bargain.

Pre-sentence Report

8. The presentence report was filed on the 11th day of June, 2023. According to the report, the accused dropped out of school after completing his KCPE because of lack of school fees; he did casual jobs within his home area so as to earn a living. He was employed as a waiter at a local hotel when he committed the offence. He is remorseful for committing the offence.
9. The family of the deceased stated that they had forgiven the accused following approach by the accused's family for reconciliation. From the report, the two families have reconciled and payment of 9 female cows has been done as per the Nandi customary laws and what remains is a cow to be taken to the deceased's family after cleansing; the victim's family do not therefore oppose non-custodial sentence neither are the local administration opposed to non-custodial sentence. The probation officer recommends 3 years' probation sentence subject to the court's discretion.

Mitigation

10. The defence counsel Mr. Mongeri mitigated on behalf of the convict. He submitted that he is a first offender and has been in custody for 3 years which has enabled him learn a lesson and is remorseful.
11. The defence counsel further submitted that the accused's and the deceased's family have reconciled and are now in good terms; further that the accused committed the offence after being involved in drinking alcohol and being in bad company but has promised never to commit any other offence.

Determination

12. Under section 205 of the [Penal Code](#) a person convicted of Manslaughter is liable to imprisonment for life. The court however has discretion to impose a lesser sentence depending on the circumstances of each case. In view of the above, I have taken into consideration the fact that the accused was boyfriend to the deceased and the incident arose out of domestic violence after the accused found out that the



deceased was involved in an affair with another person. The accused was also drunk at the material time; he however overreacted and used excessive force resulting in the death of the deceased.

13. I also take note of the fact that the fight arose out of love triangle and the accused out of extreme provocation picked a knife and stabbed the deceased. The victim's family have however forgiven the accused and have already paid 9 female cows the deceased's family as per Nandi traditions.
14. I also take note of the fact that accused is a young man at prime age who is remorseful and regrets the circumstances that lead to the commission of the offence. The community and local administration are not opposed to the accused serving probation sentence; they are willing and ready to welcome him back to the community and that the Probation officer is willing to empower him with anger management skills and advise him on alternative means of dispute resolution and give him guidance and counsel him.
15. I also take into consideration the fact that the accused has been in custody since his arrest and find that 3 years' probation sentence is appropriate for the accused so as to benefit from community-based rehabilitation.
16. Final Orders: -
 1. Accused to serve 3 years' probation sentence.
 2. Right of appeal 14 days.

RULING DELIVERED, DATED AND SIGNED IN VIRTUALLY AT KABARNET THIS 28TH DAY OF SEPTEMBER 2023

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RACHEL NGETICH
JUDGE

