



REPUBLIC OF KENYA



**Republic v Kangor (Criminal Case 4 of 2020)  
[2023] KEHC 23028 (KLR) (28 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 23028 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL CASE 4 OF 2020  
RB NGETICH, J  
SEPTEMBER 28, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**STANLEY CHEPKAITANY KANGOR ..... ACCUSED**

**RULING**

1. The accused Stanley Chepkaitany Kangor 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 17<sup>th</sup> day of February, 2020 at about 1600hours at Chabin Village, Barketiew Sub-location, Kipkata Location in Baringo North Sub- County the accused murdered one Musa Kusetei Kokwon.
2. The charge and its full particulars were read over to the accused. He pleaded not guilty and the matter was set down for full hearing. However, when the matter came up for mention before Hon Justice HK Chemitei on the November 24, 2022, the defence counsel Mr Mwaita informed the court that he was pursuing plea bargain and the court fixed the matter for mention on the 25<sup>th</sup> of January,2023.
3. On the May 31, 2023 the plea agreement was duly executed reducing the charge to manslaughter and the charge of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) and its full particulars were read over and explained to the accused who pleaded guilty and was convicted on his own plea of guilty.

**Brief Facts Of The Case**

4. The facts surrounding the offence are that on the 17<sup>th</sup> day of February, 2020 at around 4: 00p.m, after doing casual job, the accused passed by the house of Elijah Chebet Chesire who was taking illegal brews together with 3 other people. The accused was carrying a panga and yellow paper bag containing maize flour. The accused requested Elijah to serve him with liquor and he was given liquor in a small cup but



accidentally, the bag he was carrying fell down and the flour spilt to the ground. He scooped the flour and put inside the said bag. As the accused was taking the said liquor, he cut across a stone within the said home using the panga he was carrying and nobody bothered to ask him why.

5. The accused finished his drink, collected his items and left the place towards his home. Shortly, Elija Chebet Chesire heard the deceased screaming for help; he peeped through the door and saw an arrow stuck inside the deceased body on the right side of the chest. He rushed with another person to where the deceased was lying and at first, he did not see the person who had shot the arrow but on checking around, he saw the accused herein aiming an arrow towards them and on releasing the arrow, he missed the target. The accused disappeared thereafter.
6. The deceased was taken to Elijah's house and placed on the bed and later, Elijah and two others carried the deceased to the main road. He was later taken using a motor cycle to Kipsaraman dispensary but he unfortunately passed on while undergoing treatment. The accused surrendered himself to the police at Yatia where he was arrested and handed over to the investigating officer.
7. On the 28<sup>th</sup> of February, 2020 postmortem was conducted on the deceased's body at Baringo County Referral Hospital by Dr Mwangi who formed the opinion that the cause of death was due to cardio pulmonary collapse secondary to lung injury as a result of arrow shot and suspected poisoning from the arrow.
8. The police file was compiled and the accused was arraigned before court and charged with the offence of murder now reduced to manslaughter following plea bargain agreement.

### **Pre-sentence Report**

9. The court directed that a pre-sentence report be filed and the same was filed on the 14<sup>th</sup> day of June, 2023. From the report, the accused is 22 years and was not married at the time of the offence. He admitted that he rushed to his house to pick a bow and arrow after quarrelling with the deceased and went back to shoot the deceased.
10. From the report, the area chief and village elders stated that the accused's family has not made any effort to start reconciliation process and on that ground, the probation officer recommends that this Honourable court may exercise its discretion in sentencing the accused.

### **Mitigation**

11. The defence counsel Mr Mwaita mitigated on behalf of the accused. He submitted that the accused is remorseful and seeks forgiveness from the Honourable court. He submitted that the accused tried to seek forgiveness from the deceased's family but they opposed though the accused's family is willing to engage in negotiations with the deceased's family.
12. Counsel further submitted that the accused is 22 years old, is single and a partial orphan with father aged 73 years old alive but his mother is deceased. That he is a first offender and seeks leniency. He prays for a non-custodial sentence, is ready and willing to abide by all conditions that this Honourable court may impose. He stated that the accused has been in custody since February 18, 2020 and urged this court to consider the time he has been in custody during sentencing.

### **Determination**

13. Under section 205 of the [Penal Code](#) a person convicted of the offence of Manslaughter is liable to imprisonment for life. However, the court has discretion to impose lesser sentence depending on circumstances of each case. Factors to consider while exercising discretion include type of weapon used



to inflict injuries, how injuries were inflicted, relationship between the accused and deceased, views of the family of deceased and community among others.

14. I take note of the fact that accused is a first offender and is remorseful of his action He however deserves deterrent sentence for taking the life of the deceased in a painful manner, shooting with an arrow. From the facts, the accused acted in a rage of anger. In my view he requires counselling on anger management and to avoid overindulging in illicit brew which give rise to conflicts. In view of the above, I am inclined to impose 7 years imprisonment.
15. Final Orders: -
  1. Accused to serve 7 years imprisonment.
  2. Period served in remand to be reduced form sentence imposed in terms of section 333 (2) Proviso of the *Criminal Procedure Code*.

**RULING DELIVERED, DATED AND SIGNED IN VIRTUALLY AT KABARNET' THIS 28<sup>TH</sup> DAY OF SEPTEMBER 2023**

**RACHEL NGETICH**

**JUDGE**

