



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mutuku (Criminal Case E001 of 2022)
[2023] KEHC 27277 (KLR) (26 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 27277 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL CASE E001 OF 2022
SN MUTUKU, J
OCTOBER 26, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

JULIANA KAMENE MUTUKU ACCUSED

RULING

1. Juliana Kamene Mutuku, the accused herein, was initially charged with murder contrary to section 203 as read with section 204 of the [Penal Code](#). The particulars of the offence showed that she killed Stephen Maundu Kilelo on December 20, 2021 at Elerai Area within Mashuru Sub-County in Kajiado County. She pleaded not guilty to that charge. However, in the court of the proceedings in this matter, the parties entered into a Plea-Bargaining Agreement after the accused offered her acceptance to enter into this agreement. The State accepted and the Plea-Bargaining Agreement proceedings were conducted on July 5, 2023.
2. The accused pleaded guilty to the lesser charge of manslaughter which stated that she unlawfully killed Stephen Maundu Kilelo on December 20, 2022 at Elerai area of Mashuru Sub-County within Kajiado County.
3. The prosecution presented the facts of the case to that the accused and the deceased had been living together for about 9 months; that on December 20, 2021, the deceased assisted the accused to clean the bar where she worked as a bar maid after which they took alcoholic drinks together and that later the accused went out to buy mogoka (khat) and on returning she found Kshs 200 missing from the counter. She accused the deceased of having taken the money. A quarrel ensued between them over the issue.



4. The deceased is said to have attacked the accused with a knife intending to stab her, but the accused overpowered him due to his drunkenness and instead stabbed him on the left lower abdomen. She left him inside the house and went to the bar to serve customers.
5. The facts show that the accused attempted to conceal the fact that the deceased had died and bled on the ground because she called one Johnstone Mutuku Kasanga, deceased's brother-in-law, and told him that the deceased had taken poison. Johnstone later went to the house and found the body of the deceased lying on the bed and the floor wet with water all over with a stench of blood.
6. The body was picked up by the police and taken to Makindu Sub-County Hospital where a postmortem was conducted on December 28, 2021. The postmortem report dated December 28, 2021 was produced as exhibit 1. It confirms that the cause of death was due to severe blood loss due to penetrating sharp force trauma to the pelvis.
7. The accused was arrested and charged with murder now reduced to manslaughter.
8. The accused admitted the facts as correct. Consequently, the court found her guilty of manslaughter on her own plea of guilty and convicted her. This court also called for a pre-bail report which was filed on July 28, 2023.
9. During mitigation hearing on September 26, 2023, Mr. Korir G. K for the accused submitted that the accused is 36 years old and a mother of three children aged 16, 14 and 9 years old; that she is remorseful and has accepted the responsibility and decided to plead guilty for manslaughter and save court's time; that she has reconciled with the family of the deceased and is seeking leniency from the court and non-custodial sentence. It was mitigated that she is the sole provider of her three children and if jailed they will be left destitute.
10. The prosecution counsel told the court that she did not have previous criminal records for the accused and that she has saved court precious time on pleading guilty to manslaughter. Counsel, however, asked the court to consider custodial sentence.
11. I have considered the circumstances surrounding this offence. From the facts presented in court, the accused was defending herself and, in that process, she stabbed the deceased. It is clear to me that had she sought help immediately after stabbing the deceased, perhaps his life could have been saved. Her action to leave an injured deceased inside the house without seeking help to rush him to hospital contributed to excessive bleeding from which he died.
12. I have noted that the accused is remorseful and has accepted responsibility for causing death of the deceased. I am alive to the fact that a life has been lost and cannot be brought back. The pre-sentence report speaks well of the accused who seemed to have lived well with other people save for her alcoholic consumption and chewing khat which are negative habits. She needs rehabilitation and counselling to change her lifestyle.
13. The accused can benefit from a probation order and non-custodial sentence. She will serve 4 years' probation sentence under the supervision of a Probation Officer. She also needs counseling to assist her in rehabilitating her into society. It is so ordered.

DATED, SIGNED, AND DELIVERED 26TH OCTOBER 2023.

S. N. MUTUKU

JUDGE

