



**Republic v Ruto (Criminal Case 56 of 2023)  
[2023] KEHC 25993 (KLR) (30 November 2023) (Sentence)**

Neutral citation: [2023] KEHC 25993 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDAMA RAVINE  
CRIMINAL CASE 56 OF 2023  
RB NGETICH, J  
NOVEMBER 30, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**DENNIS KIPKURUI RUTO ALIAS NAROK ..... ACCUSED**

**SENTENCE**

1. The accused Dennis Kipkurui Ruto alias Narok had been charged with the offence of murder contrary to section 203 as read with Section 204 of the [Penal Code](#). The particulars of the charge being that on the 12<sup>th</sup> day of July, 2022 at Boito Village in Koibatek Sub- County within Baringo County the accused murdered Finlay Kipkurui.
2. The accused denied the charge. when the matter came up for hearing before Hon. Justice T. Matheka on the 26<sup>th</sup> January, 2023, the defence counsel Mr. Chebii informed the court that the accused had applied for plea bargaining through the prison system and informed the court that he wished to pursue the same. The matter was then fixed for mention on the 22<sup>nd</sup> February 2023, to confirm the progress on plea bargaining.
3. On the 16<sup>th</sup> October,2023 the plea agreement was duly executed. The charge was reduced to manslaughter. On the said 16<sup>th</sup> day of October, 2023, the charge of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) and its 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 offence**

4. On the 11<sup>th</sup> day of July, 2022 at around 2100 hours, the deceased herein Finlay Kipkurui Chirchir was at Bondeni bar in Boito trading Centre within Seguton Location, Koibatek Sub-County together with Dennis Kiprotich Rono and Titus aka Tito. They ordered alcoholic drinks and stayed there drinking



- until midnight and while drinking, a fight ensued between the deceased and one of his friends one Dennis Rono caused by a claim that the deceased had taken his money Kshs 110. The accused separated them and requested the sales person to give Dennis Kshs 110 to avoid the fight.
5. When it was time for the bar to be closed, Dennis Kipkurui Ruto aka Narok carried his charcoal in a sack from the bar and placed inside a small hole outside the bar as he went back to buy energy drink. On coming back, he found his charcoal missing. On enquiring, one Kipkoech who was smoking outside informed him that his charcoal was taken away by Finlay (deceased). The accused ran towards the route heading to deceased's home. He found him on the way carrying the charcoal. The accused slapped him as he threw him down. The accused then removed his club from the waist and hit the deceased's head seven times.
  6. Dennis Kiprotich Rono together with Titus also left the bar. While on their way back home with Titus who was heading to Kisorobi found the deceased lying on the roadside. They thought he was drunk and tried to wake him up but they noticed there was blood oozing from his head. The deceased uttered some word "Makaa, Narok" immediately Dennis Kiprotich Rono recalled seeing Dennis Kipkurui Ruto aka Narok carrying a carrier bag and a club going back to Boito Centre.
  7. Dennis Kiprotich Rono ran and informed Titus Ng'eno who is the deceased's brother that his brother (deceased) had been assaulted by Narok. Titus Ng'eno rode the motorcycle carrying Finlay Kipkurui Chirchir (deceased) with the help of Dennis Kiprotich Rono to the hospital and while on their way, they realized he was not breathing and screamed for help from neighbours.
  8. Police Officers who had been notified arrived at the scene, processed the scene and documented it. The body was taken to Eldama Ravine Sub-County hospital mortuary. On the same day, Titus Ng'eno, Dennis Kiprotich Rono, Leonard Cheruiyot Kosgei went to Dennis Kipkurui Ruto aka Narok's home and arrested him. They brought him to Timboroa Police Station where he was re-arrested by CI Daniel Kadei. Also, Leonard Cheruiyot Kosgei handed over a wooden club with blood stains which was suspected to be murder weapon to CI Daniel Kadei. The accused was interrogated and he confessed in the presence of his father Paul Rono. On 18<sup>th</sup> July 2022 IP Toroni Edinah escorted family members of Finlay Kipkurui Chirchir to Eldama Ravine hospital mortuary where postmortem was conducted and the cause of death was concluded by the pathologist as acute/severe head injury secondary to high energy blunt force due to assault and chest injury. The police file was compiled and the accused charged with the offence of murder now reduced to manslaughter.

### **Pre-sentence report**

9. From presentence report, the offender attended school up to class 3 at Masandare primary school where he dropped out in the year 2009 due to lack of interest and poor parental follow up and upon dropping out of school, he was employed as a cattle herder at Ololunga area (Ngoitoi Kameto) in the year 2011 where he remained for a period of about 4 years. Afterwards, he learnt how to ride a motor bike and subsequently started working as a boda boda operator within Ololunga area. He returned home in the year 2017 and got married to one Betty Jepkurui. He was working as a boda boda operator prior to his arrest.
10. The accused regrets the commission of the offence blaming his action to the influence of alcohol and anger.
11. The family members of the late victim expressed bitterness for the loss of their kin. The father stated that the late son was a youthful person who was hardworking as a farmer. He further stated that he has been suffering psychologically whenever he remembers the incident and he is unforgiving to the



- offender. The family members stated that the offender was known for assaulting people in the area and they felt safe in his absence.
12. The family members of the accused spoke negatively about him. They said that he was a problem not only to the members of the public but had in the past attacked his immediate family members and forced them to seek shelter away from home. They stated that they were not willing to participate in any reconciliation talks with the family of the late victim on behalf of the accused.
  13. The area administrator said he knew the offender for his criminal activities in the area. He affirmed the sentiments of the family of the late victim and those of the offender's family members. He stated that the community was at peace in the absence of the offender. He expressed fear that the offender's life may be at risk should he come back into the community since the members of the public still harbor ill feelings and they may attack him.
  14. The Probation Officer states that despite the accused being a youthful person aged 27 years, he is associated with past conduct of creating disturbance, harming people and causing disharmony in the community. He is considered to be a threat to peaceful co-existence in the community and in his view, the current prevailing home environment is not conducive for reintegration of the offender.

### **Mitigation**

15. The defence counsel Mr. Chebii mitigated on his behalf. He submitted that the accused is remorseful for killing his friend who had taken his charcoal. He submitted that the accused is a first offender with no previous conviction. That he has since reformed within the short period he has been in prison. That he has been baptized and has completed bible study hence he should not be punished with custodial sentence. Counsel urged the court to consider the period the accused has been in custody. He submitted that the accused is a family man with a wife and 2 children and he was the sole bread winner. That the accused can relocate upon release.
16. The prosecution counsel Ms. Ratemo submitted that a young man's life was cut short, that he also left his young family and they are still grieving. That there has been no reconciliation with the family of the deceased hence there is still bitterness following death of the deceased. That the character of the accused before the offence is also captured in the report; he was a threat to the peaceful co-existence in the community and the area administration say that the area is at peace since the arrest of the accused and it would be a great injustice to release the accused without having paid for his sins. She sought that the accused be sentenced to a term not less than 30 years in light of the court of appeal decision that life imprisonment is unconstitutional.

### **Determination**

17. Under section 205 of the [Penal Code](#) a person convicted of Manslaughter is liable to imprisonment for life. Life sentence was however declared unconstitutional by the court of appeal in Malindi Court of Appeal Criminal Appeal No. 12 of 2021, Julius Kitsao Manyeso Versus Republic In view of the above, the court has discretion to impose determinate sentence depending on circumstances of each case.
18. I have considered the accused's mitigation through defence counsel and the fact that he is a first offender. I also take note of the fact that there is no reconciliation between the family of the victim and the family of accused. Both families together with the local administration are opposed to the convict being released on bond. From the report, the accused's character before his arrest was not good. He involved himself criminal activities in the community and the community felt safe without him. He is not therefore welcome to the community. It would be appropriate to place the convict in custody so that he can be rehabilitated so as to fit in the society. I take note of the fact that accused has been in



custody since 12<sup>th</sup> July, 2022 when he was remanded awaiting trial, and has therefore been in custody for almost 2 years and 4 months as at now and he will have the period reduced from the sentence imposed as provided under section 333 (2) of the *Criminal Procedure Code*.

19. Final Orders: -

1. Accused to serve 25 years imprisonment.
2. Period served in remand to be reduced from sentence above.
3. Right of Appeal 14 days.

**RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT KABARNET THIS 30<sup>TH</sup> DAY OF NOVEMBER 2023.**

.....  
**RACHEL NGETICH**  
**JUDGE**

In the presence of:

Mr. Chebii for accused.

Accused present.

