



**Republic v Ngeiywo (Criminal Case E020 of 2023)
[2023] KEHC 26778 (KLR) (21 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 26778 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL CASE E020 OF 2023
REA OUGO, J
DECEMBER 21, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

ALICE CHEPKWEMOI NGEIYWO ACCUSED

SENTENCE

1. Alice Chepkwemoi Ngeiywo (the accused) unlawfully caused the death of Moses Moss Chemangei on the 11th of May 2023. She pleaded guilty to the offence of manslaughter contrary to section 202 as read with section 205 of the *Penal Code*.
2. The accused is a first offender. The probation report tendered in court on the 19th of December 2023 states as follows; the accused is 47 years old. The deceased was her husband. The accused has no strong family ties with her siblings. The accused has 4 children from a previous marriage and 5 children with the deceased. She lost two children under mysterious circumstances, currently, she has 7 children. The accused's marriage was marred with violence. The offender has scars all over her body which she claims were inflicted by her late husband. At one time her late husband burnt her hands. She is hypertensive and is on drugs. Her husband did not help her in looking after the children. Prior to the unfortunate incident the accused and deceased used to fight frequently. She states that her husband sent her away after assaulting her with a panga and threatening to kill her. On the material day her husband was drunk but half asleep still holding onto the panga. He woke up and she tried to pull the panga away. She pulled the panga and when the deceased tried to fight her she cut him with the panga and ran away. She returned the next morning and found he had died. She raised an alarm and her neighbours came but later wanted to kill her. On the victim's attitude, it's reported that although reconciliation was done the accused is not expected to go back to her marital home and that the victim's family is likely to harm her in case she is given a non-custodial sentence. The community all point a finger at the deceased as being the aggressor and claim that the deceased was violent even to his own children which



led to unexplained deaths. The area chief believes that she is not a threat to the community and she is not involved in criminal activities. Her elder sibling is willing to accommodate her until she can stand on her own. A non-custodial sentence is recommended, probation for 3 years.

3. Ms Natwati for the accused submitted as follows in mitigation; the accused is a first offender she has 8 children her oldest child is 19 years old and her youngest is 2 years old. She was in an abusive marriage. She had frequent fights with her husband and this made her attack him with a panga when he was asleep. She cut him once and left him bleeding. She has been in custody for 8 months. She is remorseful and she regrets her action. She is now a changed citizen of good morals and she seeks a non-custodial sentence. The rest of the submissions reiterated what the probation report.
4. I have considered the sentencing guidelines, the probation report and mitigation, and the sentence provided in law for manslaughter. I have also considered the facts of this case and how the deceased lost his life. He picked a quarrel with the accused after returning home. He wanted to assault the accused and she defended herself and ran out. Later she returned to the house at night and her older daughter saw the accused cut the deceased on the neck. She left the deceased bleeding. This narration is different from what she told the probation officer. The deceased was attacked whilst asleep. Although a non-custodial sentence is recommended in my view I find it not an appropriate sentence. I therefore sentence the accused to six (6) years imprisonment, I have considered the period she has been in remand. She has a right of appeal within 14 days.

DATED, SIGNED, AND DELIVERED AT BUNGOMA THIS 21ST DAY OF DECEMBER, 2023.

R.E. OUGO

JUDGE

In presence;

Alice Chepkwemoi Ngeiywo/ Accused - Present

Miss Mwaniki - For the State

Miss Natwati For the Accused Person – Absent

Wilkister - C/A

