



REPUBLIC OF KENYA



**Republic v Mutuota (Criminal Case E027 of 2022)  
[2023] KEHC 27105 (KLR) (Crim) (20 December 2023) (Sentence)**

Neutral citation: [2023] KEHC 27105 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL CASE E027 OF 2022**

**K KIMONDO, J  
DECEMBER 20, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOSEPH WAMBUA MUTUOTA ..... ACCUSED**

**SENTENCE**

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on 19<sup>th</sup> October 2023.
2. 19-year old Margaret Njeri Kariuki (hereafter the deceased) was in a romantic relationship with the accused. Her parents did not approve of it. On 17<sup>th</sup> April 2022, the deceased lied to her parents that she was travelling to Nairobi to visit her sister. But she was in fact heading to a rendezvous with the accused. The two booked room number 19 at Rwa Guest House in Ngara where they spent the night.
3. Early in the morning of 18<sup>th</sup> April 2022, the accused was scrolling down the deceased's phone when he saw chats that made him suspect that the deceased was having an affair. A confrontation ensued. He picked a kitchen knife and stabbed her seven times on the neck. He then absconded to his parents' home in Donyo Sabuk where he attempted to commit suicide by ingesting a poison.
4. The body of the deceased was discovered by a cleaner on 19<sup>th</sup> April 2022 and a report made to the police. The autopsy by Dr. Peter Ndegwa (exhibit 1) confirms that the cause of death was "exsanguination due to multiple stab wounds".
5. I have considered the mitigation tendered by the accused's counsel, Mr. Owade. The accused is aged about 39 years and a first offender. He regrets his conduct, which he blames on alcohol, and prayed for clemency.



6. According to the pre-sentencing report dated 14<sup>th</sup> December 2023, the accused is married and has three children. He was thus having an illicit relationship with the deceased. The deceased on the other hand was the youngest child in her family and had just completed her secondary education. The two families have since reconciled under Kamba customary system and compensation of Kshs 1,100,000 paid to the deceased's family as "blood money". Some rites including "cleansing of the offender" are however still pending. The probation officer recommends a non-custodial sentence.
7. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Manslaughter is a grave felony and attracts a sentence of life imprisonment. I have considered the reconciliation agreement between the two families. But the circumstances under which the accused stabbed the deceased to death call for a custodial sentence. That is the justice of the case. It will also afford the accused an opportunity to further introspect; get further counselling on alcohol abuse; and, how to control his impulses.
8. I accordingly sentence the accused to serve three (3) years in jail. The sentence shall run from 20<sup>th</sup> April 2022, the date when he was first arrested and placed in custody.
9. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20<sup>TH</sup> DAY OF DECEMBER 2023.**

**KANYI KIMONDO**

**JUDGE**

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

Mr. Owade for the accused.

Ms. Njoroge for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. E. Ombuna, Court Assistant.

