



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Gitonga (Criminal Case 9 of 2018)
[2022] KEHC 17227 (KLR) (Crim) (28 April 2022) (Sentence)**

Neutral citation: [2022] KEHC 17227 (KLR)

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

**CRIMINAL
CRIMINAL CASE 9 OF 2018**

K KIMONDO, J

APRIL 28, 2022

BETWEEN

REPUBLIC PROSECUTOR

AND

HENRY MUGAMBI GITONGA ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on March 10, 2021. The offence is grave and attracts a sentence of life imprisonment.
2. The deceased used to hawk milk in Mathare North Area. The accused was running a shop there. An argument ensued over an excess packet of milk given to the accused: The latter did not want to buy it whereas the deceased insisted that he must do so. In the course of the argument, the deceased threw the packet towards the accused and it fell. The deceased picked it up and placed it on the counter spilling the contents onto an Mpesa Book. The accused followed the deceased and stabbed him with a knife on the chest.
3. The deceased succumbed to the mortal wound immediately. The autopsy by Dr Maingi (exhibit 1) confirms that the cause of death was “penetrating chest injuries due to a single stab wound (sharp force trauma)”.
4. I have considered the pre-sentence report dated April 9, 2021 under the hand of Mr A Kanyutu, Probation Officer as well as the mitigation tendered by the accused’s counsel, Ms Akinyi. The accused is a first offender and regrets his conduct. He acknowledges that had he not allowed to be consumed by anger and impatience over a petty argument, a life would not have been lost. He has no doubt had sufficient time to reflect and introspect on his conduct during his long incarceration.



5. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. I sentence the accused to five (5) years' imprisonment. The accused has been in prison custody throughout. The sentence shall accordingly run from January 12, 2018, the date when he was first arrested and taken into custody.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF APRIL 2023.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

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

Ms. Akinyi holding brief for Mr. Mbaabu for the accused.

Mr. E. Ombuna, Court Assistant.

