



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Chirchir (Criminal Case 11 of 2022)
[2022] KEHC 11369 (KLR) (20 May 2022) (Sentence)**

Neutral citation: [2022] KEHC 11369 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 11 OF 2022**

AN ONGERI, J

MAY 20, 2022

BETWEEN

REPUBLIC PROSECUTION

AND

KENNEDY KIPROP CHIRCHIR ACCUSED

SENTENCE

1. The Accused Person was initially charged with Murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The charge was subsequently reduced to one of Manslaughter following a plea bargain agreement signed by the Accused Person on 16/7/2021.
3. The particulars of the charge of manslaughter were that on 26/8/2020 at 1800 hrs at Bonchoko Village in Bureti Sub-County within Kericho County, the Accused Person unlawfully killed John Kipkorir Chirchir.
4. The facts of the case as given by the Prosecuting Counsel were as follows:-

On the material day of 25th August, 2020 at around 16.00hrs, the children of the deceased and the Accused Person were inside the Kitchen of the deceased because it was raining. The Accused Person and the deceased are brothers, the deceased being the eldest. The children then started disagreeing and exchanging words, resulting to Dominic Kipngeno slapping Cynthia Cheptoo Kiprop. The wife of the Accused Person went to inquire about what had happened but did not manage to solve the matter.

The Accused Person and the deceased got involved and enquired what had happened, and a fight ensued between the two. In the melee, the wife of the Accused Person was assaulted by the son of the deceased.



The Accused Person then took a wooden stick and used it to hit the deceased on the head. The deceased fell down screaming. The deceased was rushed to A.I.C. Mission Hospital, Litein where he was admitted but died on 26/8/2020 while undergoing treatment.

The incident was reported at Litein Police Station on 27/8/2020. The Police visited the Hospital and found the body of the deceased at Mortuary which had an injury on the left side of the head; the Accused Person was later arrested at Kapkarin Village.

Postmortem was done and the doctor formed the opinion that the cause of death was severe head injury due to assault.

The Accused Person was charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code, which has now been reduced to Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code.

5. In mitigation, Counsel for the Accused Person said that the deceased was in a drunken stupor and he was the aggressor since he attacked the Accused Person.
6. It was further submitted that the Accused Person is remorseful for the offence and further that he did not plan to kill the deceased. Further, that while in custody, he has searched his soul and committed his life to Christ.
7. The Accused Person pleads for a non-custodial sentence since the family of the deceased and his family have reconciled and he will be undergoing Kipsigis Traditional cleansing rites if he is released.
8. The Probation Officer filed a Pre-sentence Report on 18/2/2022 detailing the social background of the Accused Person. The Report stated that the Accused Person and the deceased were brothers and further that there existed another previous criminal record in the family whereby the deceased had committed Murder in 1991.
9. The Court has taken into account the mitigating circumstances of this case especially the fact that the Accused Person is remorseful for the offence and the fact that he pleaded guilty to the charge of Manslaughter and saved the Court's time for trial.
10. The offence of Manslaughter is a very serious one for which the law provides for life imprisonment.
11. The Court has taken into account the circumstances under which the offence was committed and it is noted that the Accused Person did not intend to commit the offence.
12. The Accused Person is sentenced to 5 years imprisonment.
13. The sentence to take into account the period the Accused Person has been in custody since 14/9/2020. The sentence to start running from 14/9/2020.
14. The Accused Person has a right of appeal against the sentence within 14 days of this date.

DELIVERED, DATED AND SIGNED AT KERICHO THIS 20TH DAY OF MAY, 2022

A. N. ONGERI

JUDGE

