



Republic v Rop (Criminal Case 31 of 2022) [2022] KEHC 11843 (KLR) (20 May 2022) (Sentence)

Neutral citation: [2022] KEHC 11843 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 31 OF 2022
AN ONGERI, J
MAY 20, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

ROBERT KIPKOECH ROP ACCUSED

SENTENCE

1. The Accused Person was charged with Murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. The charge was reduced to Manslaughter following a successful plea bargain agreement signed by the Accused Person on 10/6/2021.
3. The particulars of the charge were that on 18/11/2017 at Kapkabur Village Ketitui Sub-Location within Kericho County, the Accused Person unlawfully killed Josephat Kibet Kemboi.
4. The facts of the case as given by the Prosecuting Counsel are as follows:-

On the 18th day of November, 2017 at around 7.30 pm, one Robert Kipkoech was in his house watching news on Television Set with his neighbor Victor Cheruiyot.

The door of the house was partially closed at the time.

Suddenly, the deceased pushed open the door, got inside the house and pushed back the door to shut it while crying for help. The Accused Person was by then pursuing him and had also reached the house. He blocked the door from being closed by the deceased and pushed it back in an effort to open it.

The Accused Person who was holding a knife on one hand and panga on the other hand overpowered the deceased and managed to push and open the door.



The Accused got inside the house and Victor Cheruiyot unsuccessfully tried to get hold of him because he was armed. The deceased tried to run out of the house but the Accused blocked him, wrestled him down and stabbed him on the neck using the knife he was holding.

The Accused then ran away leaving the deceased squatting at the door with blood oozing from the wound.

Members of the Public and neighbours heard the commotion and tried to pursue the Accused in vain.

The deceased person collapsed and died outside the house minutes later.

One of the neighbours called the Area Assistant Chief and informed him of the incident.

The Assistant Chief reported the matter at Kapsoit Police Station.

He then accompanied Police to the scene and found the body of the deceased lying on the ground in a pool of blood and a visible stab wound on the left side of the neck near the chest.

Police officers from Ainamoi Police Station led by the OCS arrived and took the body of the deceased to Kericho County Referral Hospital Mortuary.

Postmortem was performed by Dr. Kaberia P.M. who formed the opinion that the cause of death was tension pneumothorax and left hemothorax secondary to chest was stab wound.

The Accused who had ran away went to hide at his relative's home at Sosiot but informed them that he had killed a person at Ainamoi Area.

His relatives then escorted him to Nyagacho Police Station where he was arrested and placed in cells.

The Accused and the deceased had a grudge and had even fought a week before the incident.

It is not clear what caused the grudge between them.

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

5. In mitigation, Counsel for the Accused Person told the Court that the Accused Person is an adult aged 33 years and that he is married with 3 children.
6. Further, that the Accused Person and the deceased were close friends who used to drink together and further that the cause of the fight was a girlfriend they had in common whose attention each wanted to get.
7. It was also submitted that the Accused Person is deeply remorseful for the offence he committed and further that they were both drunk during the incident.
8. It was also submitted in mitigation that the two families have carried out Kipsigis Customary rites and that the Accused Person has been in custody for 5 years and he is seeking a non-custodial sentence.
9. The Probation Officer filed a Pre-sentence Report dated 16/5/2022 detailing the social background of the offender. The Report states that the Accused Person went to school up to class eight and sat for KCPE but he lost interest in school and started doing casual jobs to earn a living.



10. The Accused Person was first arraigned in Court on 22/11/2017 and he was released on bond on 9/2/2018. However, on 28/7/2020, he violated the terms of the bond and the same was cancelled and he was again remanded in custody. He was in custody for almost 2 years. (a total of 22 months) and not 5 years as the defence Counsel told the Court.
11. The Court has taken into account the mitigation as given by the Accused Person's Counsel and also the fact that the Accused Person pleaded guilty to the charge and saved the Court's time.
12. The Charge of Manslaughter is a very serious one and it calls for a life sentence. The Accused Person killed his friend because of a shared girlfriend.
13. The Accused Person is hereby sentenced to 20 years imprisonment.
14. The sentence to start running from 28th July, 2020 when the Accused Person was remanded in custody after his bond was cancelled.
15. The Accused Person has a right of appeal to the Court of Appeal against sentence within 14 days of this date.

Delivered, dated and signed at Kericho this 20th day of May, 2022.

A. N. ONGERI

JUDGE

