



**Republic v PM (Criminal Case 56 of 2018) [2022] KEHC 3062 (KLR) (30 June 2022) (Ruling)**

Neutral citation: [2022] KEHC 3062 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE 56 OF 2018**

**JM NGUGI, J**

**JUNE 30, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**PM ..... ACCUSED**

**RULING**

1. PM (“Accused Person”) is a father of six children. He was also married to one, JM (“Deceased”). On the night of 21/11/2018, the Accused Person returned home at [Particulars Withheld] Village in Tenet Location, Kuresoi Sub-County in Nakuru County at about 9:30pm in the night. To his horror and shock, he found his wife, the Deceased, having sex with two men.
2. The Accused Person went ballistic. He drew his knife and started stabbing the trio. The two errant men managed to escape with serious injuries. They were later taken to Tenwek Hospital where they were admitted for treatment. Fortunately for them, they recovered and were later discharged.
3. The Deceased was not as lucky. She sustained deep cuts. Her shouts for help attracted some neighbours who came to her assistance. They found her bleeding profusely. They decided to take her to Olenguruone hospital where she was pronounced dead on arrival.
4. The Accused Person fled the scene and the home. He was arrested about two weeks after the incident at a forest where he was hiding. He was arrested and charged with the offence of Murder. He initially pleaded not guilty to the charge of murder.
5. However, on June 10, 2022, the Accused Person signed a Plea Agreement admitting to these facts and accepting to plead guilty to the lesser charge of manslaughter. By a Plea Agreement dated June 10, 2022, the Accused Person pleaded guilty to the charge of manslaughter contrary to section 202 as read together with section 205 of the *Penal Code*. After due caution, and after satisfying myself that the Plea Agreement was entered into knowingly and voluntarily, I recorded a conviction and set the case for sentence hearing today (30/06/2022).



6. The Prosecutor, Ms. Mumbe told the Court that the Accused Person is a first offender. She was of the opinion that given the circumstances of this case, the time the Accused Person has been in custody is sufficient custodial sentence. She filed a Victim Impact Statement which indicates that the family of the Deceased prefer that the Accused Person be put on probation. They report that the two families have reconciled and made peace.
7. On his part, the Accused Person expressed deep regret. He explained that when he found his wife in flagrante delicto in their own home, he temporarily lost his sanity. He said that he let rage control him but that he is deeply remorseful for causing the death of his wife. Given another chance, he explained, he would react differently. He pleaded for a chance to go take care of his younger children who need a parent. He stated that he has learnt to control his anger while in prison and that he has taken the time to reflect on his actions. He said that he has learnt that if he ever witnessed something like that again, the best option is to walk away and report rather than take the law in one's own hands.
8. Two of the Accused Person's (and Deceased's) adult children addressed the Court as well. They begged the Court to release their father so that he can re-join the family and take care of the younger ones. They regretted that the actions of their mother had led to the current circumstances.
9. All considered, there are powerful extenuating circumstances in this case. The Accused Person acted in the heat of passion having caught his wife committing adultery in flagrante delicto. He is remorseful for his actions; and he appears genuinely so. There is no doubt that the offence was not planned. Further, the other primary victims – the children born of the marriage – expressed a desire to have their father released. Finally, the Accused Person has been in custody since 13/12/2018 when he was first arraigned.
10. In the circumstances of this case, I hereby sentence the Accused Person time equal to the period he has been in custody. That is sufficient time served for the offence. He shall be released from custody forthwith.
11. Orders accordingly.

**DATED AND DELIVERED AT NAKURU THIS 30<sup>TH</sup> DAY OF JUNE, 2022**

**JOEL NGUGI**

**JUDGE**

