



**Republic v Chirchir (Criminal Case 21 of 2015)  
[2022] KEHC 10491 (KLR) (29 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 10491 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE 21 OF 2015  
RB NGETICH, J  
JULY 29, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SIMON KIPKURUI CHIRCHIR ..... ACCUSED**

**RULING**

1. Simon Kipkurui Chirchir was initially charged with the offence of Murder Contrary to Section 2013 as read with Section 204 of the Penal code. Particulars are that on 28<sup>th</sup> March 2015 at Morocho Village in Rongai District within Nakuru County he murdered Priscilla Wangui Mwangi.
2. The court in Judgment delivered on 26<sup>th</sup> May, 2022 convicted him on the account of Manslaughter Contrary to Section 202 as read together with Section 205 of the Penal Code. The court found the prosecution had proved the case beyond a reasonable doubt on account of Manslaughter and proceeded to convict the accused accordingly.
3. The state counsel Mr. Kihara stated the convict be treated as a first offender.
4. In mitigation through defence counsel Ms Cheruto, stated that he is remorseful, he has reformed having been in custody for seven (7) years. He is a father of two (2) children who at the time of his arrest were dependent on him. After the demise of his wife, the children are in the custody of a maternal aunt and they have not received any parental care.
5. Counsel further submitted that the actions of the accused were not intended and as per the pre-sentencing report, the family of the accused is willing to receive the accused without any hostility. The Chief proposes a non-custodial sentence which counsel for the convict supports. She urged the court to issue a non-custodial sentence of two (2) years.



6. In a rejoinder, the state counsel Mr. Kihara urged the court to look at the prevailing Murder cases in the country and to give a deterrence sentence to the convict so that it serves as a lesson to society that human life should not be taken for granted.
7. Presentence report was filed by Probation Officer on 7<sup>th</sup> July 2022. In the report, the area Chief describes the family of the convict as peaceful with no issues with society. He further stated that the family is involved in the brewing and consumption of illicit brew and little attention is paid to family matters.
8. The report further indicate that the convict's family wishes to start reconciliation with the victim's family. The victim's family did not however point out any possible reconciliation; they stated that they have moved on from the loss of their loved one and they leave the matter to the court for determination.
9. The area Chief has no issues with the convict being given a non-custodial sentence. He is willing to offer close supervision if the convict is granted a non-custodial sentence
10. I have considered the fact that the convict is a first-time offender and is remorseful of his actions. I also take note of the fact that accused did push the deceased after the provocation. From the record, the facts revealed the deceased and the convict engaged in illicit brewing and consumption and were both drunk at the time of the crime. The push by the convict saw the deceased sustain fatal injuries.
11. Section 205 of the Penal Code provides life imprisonment as the punishment for Manslaughter. I however take note of the sentencing guidelines and circumstances surrounding commission of the offence herein.
12. In the case of Joseph Kimanzi Munywoki v Republic [2006] Eklr the court of appeal quashed the conviction of life imprisonment after the accused pleaded guilty for killing out of provocation and found that since it was a very brutal killing, the appellant was sentenced to fifteen (15) years imprisonment .
13. I have considered the circumstances surrounding this matter; the fact that the children of the deceased and the accused have been left under care of relatives and the fact that the accused is remorseful and I am of the view that a shorter jail term will be appropriate.

**Final Orders:-**

14. Accused to serve 5 years imprisonment.
15. Right of appeal 14 days.

**RULING delivered, dated and signed virtually at Kiambu**

**This 29<sup>th</sup> day of July, 2022**

.....

**RACHEL NGETICH**

**JUDGE**

**In the presence of:**

Ruth – Court Clerk

Accused – Present

Ms. Cheruto – For Accused



Mr. Kihara for State

