



**Republic v Langat (Criminal Case 19 of 2019)
[2022] KEHC 11545 (KLR) (28 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 11545 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE 19 OF 2019**

**RL KORIR, J
JULY 28, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

REGINA CHEPNGENO LANGAT ACCUSED

JUDGMENT

1. The Accused, Regina Chepngeno Langat was originally charged with the offence of Murder contrary to section 203 as read with section 204 of the [Penal Code](#), Cap 63 Laws of Kenya. Particulars of the offence were that on the 23rd day of July 2019, at Motiret village, Kapkelel location in Sotik sub-county within Bomet county she murdered Catherine Chelangat Miting.
2. The Accused was arraigned before Dulu J. On 4th November 2019 when she took plea and denied the charge.
3. On 15th December 2021, the Prosecution informed the Court that they had entered a Plea Agreement. The court considered that the plea agreement suggested that the Accused had a history of mental disturbance. The court found that the Plea Agreement was not acceptable on that basis as it was not clear if the Accused was fit to stand trial and therefore possessed of capacity to voluntarily execute a plea agreement. The court directed that the Accused be subjected to a fresh mental evaluation by a psychiatrist and a comprehensive report filed. A new report was filed on 15th February, 2022 which declared her of sound mind and fit to stand trial.
4. A new Plea Agreement was filed on 14th July 2022. The court interviewed the Accused in open court to satisfy itself that she understood the plea bargaining process and that she had executed the agreement voluntarily. Consequently, the Court accepted the Plea Agreement.



5. The Accused took plea on the lesser offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. The charge was read and explained to her in Kipsigis language which she understood and responded, “It is true.” A plea of guilty was then entered.

6. The facts of the case as contained in the Plea Agreement were read by the Prosecution Counsel as follows:-

On the material day at around 6.30 a.m, the Accused woke up and took a metal bar which she used to attack the deceased, her mother. The Accused’s sister who was sleeping in the same bedroom came to her mother’s rescue only to be hit with the same metal bar injuring her on the head and left hand. The Accused’s brother rushed to the scene and found their mother lying on the floor in a pool of blood. The Accused’s brother and sister rushed their mother to Kapkatet hospital where she was declared dead.

A Postmortem exam revealed that the deceased had died due to severe head injury following an assault with a blunt object.

The accused was later arrested and arraigned in court charged with Murder and which offence has now been reduced to a charge of Manslaughter.

7. The Accused accepted the facts as correct. She was then convicted of the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code on her own plea of guilty.

8. During mitigation, Mr. Koske learned counsel for the counsel for the Accused submitted that the Accused was an unmarried woman of 50 years and had 9 children whom she took care of single handedly. That she was a first offender and suffered from diabetes and high blood pressure.

9. Counsel further submitted that the Accused was remorseful and that her family had reconciled with her and were willing to accept her back home.

10. Mr. Muriithi for the State submitted that the Accused was a first offender and left the matter of sentence to the court.

11. The court directed the filing of a presentence probation officer’s report and a victim impact statement which report was filed on 26th July, 2022.

12. The Judiciary Sentencing Policy Guidelines (2016) outline the objectives of sentencing at paragraph 4.1 as follows:-

“4.1 The sentences are imposed to meet the following objectives: -

1. Retribution.
2. Deterrence.
3. Rehabilitation.
4. Restorative justice.
5. Community Protection.
6. Denunciation.”



13. The Policy Guidelines further suggest mitigating circumstances which upon consideration by the court may afford a convicted person a lenient sentence. Paragraph 23.8 on page 49 provides as follows:

“23.8. Mitigating circumstances warrant a more lenient penalty than would be ordinarily imposed in their absence. They include:-

- (1) A great degree of provocation.
- (2) Commitment to repairing the harm caused by the offender’s conduct evidenced by the actions such as compensation, reconciliation and restitution prior to conviction.
- (3) Negligible harm or damage caused.
- (4) Mental illness or impaired functioning of the mind.
- (5) Age, where it affects the responsibility of the individual offender.
- (6) Playing of a minor role in the offence.
- (7) Being a first offender.
- (8) Remorsefulness.
- (9) Commission of a crime in response to gender-based violence.
- (10) Pleading guilty at the earliest opportunity and cooperation with the prosecution and the police”.

14. Sentences must be proportionate to the offence committed by an Accused. This was aptly stated in *Hoare v The Queen* (1989) 167 CLR 348, as follows:-

“A basic principle in sentencing law is that a sentence of imprisonment imposed by the court should never exceed that which can be justified as appropriate or proportionate to the gravity of the crime considered in light of its objective circumstances.”

15. Section 205 of the *Penal Code* provides the punishment for an Accused who has been convicted of the offence of manslaughter. It states: -

“Any person who commits the felony of manslaughter is liable to imprisonment for life.”

16. The Probation Report filed on 26th July 2022 stated that the Accused was a first offender, a responsible parent and a community member who took on her communal roles positively. That the only issue she had was that of an alleged unstable mental condition that developed in the year 2013.

17. From the victim perspective, the Report stated that the family was affected by the death of their mother but they were however empathetic towards the Accused stating that she may have been affected by her mental instability which they attributed to diagnosis of diabetes and high blood pressure. They further stated that at the time of the commission of the offence, her health condition had deteriorated.

18. The community believed that with proper medication, the Accused would not pose a threat to them and her family. The Accused’s husband and child expressed love for the Accused but they however stated that they would not want to face a situation where they would be held accountable in the event the Accused’s health failed and she committed another offence.



19. The circumstances of the case were that the Accused struck her mother with a metal bar on the head thereby occasioning her a fatal injury. She went ahead and attacked her sister, Philister Chepkoech with the same metal bar when she went to the aid of her mother injuring her on her head and left hand.
20. It was stated that the Accused was diagnosed with diabetes and high blood pressure. That this made her exhibit rash, erratic behaviour and in some instances exhibited mental instability. In Medical Reports from Kericho District Hospital and Longisa County Referral Hospital and filed in this court on 30th June 2022 and 3rd October 2019 respectively, it was the opinion of the Medical Officers that the Accused was fit to stand trial. No evidence was produced to indicate that the Accused had been diagnosed with diabetes and high blood pressure.
21. I have taken into consideration the mitigation of the accused and the fact that she was a first offender. I have put into consideration the purposes of sentencing set out above vis a vis the circumstances of this case. I have also considered that the Accused was remorseful, a first offender and desired to be reunited with her family. Further, I have considered the fact that the Accused willingly accepted her crime, and saved the court precious judicial time by embracing plea negotiation. I am persuaded that a non -custodial sentence is not appropriate. I have come to the finding that the Accused will be better placed in custody where she can benefit from rehabilitation and treatment.
22. I will factor in the period spent by the Accused in pre-trial custody. In the case Of *Bethwel Wilson Kibor Vs Republic* (2009) eKLR, the Court of Appeal held that:-

“By proviso to section 333(2) of *Criminal Procedure Code* where a person sentenced has been held in custody prior to such sentence, the sentence shall take account of the period spent in custody”.
23. In the end, I sentence the Accused to serve eight (8) years’ imprisonment. The sentence shall be computed from 24th July 2019, being the date of her arrest.
24. I direct the officer in charge of the relevent prison to ensure that she accesses, and at government expense, psychosocial support and any necessary mental treatment.

JUDGMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 28TH DAY OF JULY, 2022.

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R. LAGAT-KORIR

JUDGE

Judgement delivered in the presence of Mr. Muriithi for the State, Mr.Koske for the Accused and Kiprotich(Court Assistant).

