



**Republic v Rono (Criminal Case 16 of 2019)  
[2022] KEHC 12652 (KLR) (28 July 2022) (Judgment)**

Neutral citation: [2022] KEHC 12652 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE 16 OF 2019**

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

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**TITUS KIPNGENO RONO ..... ACCUSED**

**JUDGMENT**

1. The Accused, Titus Kipngeno Rono 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 9th day of June 2019, at Kipsonoi location in Sotik sub-county within Bomet county he murdered Jasmine Cherotich Soi.
2. The Accused was arraigned before Dulu J. on 2nd July 2019 where he took plea and denied the charge.
3. On 23rd March 2022, the Prosecution informed the Court that a Plea Agreement dated and filed on 23rd March 2022 had been entered into between the Accused and the State. On the same day, the court interviewed the Accused in open court to satisfy itself that he understood the plea bargaining process and that he had executed the Agreement voluntarily. Consequently, the Court accepted the plea agreement.
4. The Prosecution charged the Accused person with the lesser offence of Manslaughter. The said charge was read and explained to him in Kipsigis language which he understood and responded, "It is true." A plea of guilty was then entered.
5. The facts of the case as contained in the Plea Agreement were read by the Prosecution Counsel as follows:-

On the 9th day of June 2019, the accused Titus Kipngeno Rono at Kipsonoi Location is Sotik sub-county in Bomet County murdered Jamine Cherotich Soi.



That the deceased was the Accused's wife and on the material day they quarrelled. In response to the provocation caused by the quarelling, the Accused got angry and stabbed the deceased occasioning her fatal injuries.

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

6. The Accused accepted the facts as correct. He was then convicted of the offence of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#) on his own plea of guilty.
7. 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.”

8. Sentences must be commensurate to the offence committed by an Accused. The Court of Appeal in the case of [Thomas Mwambu Wenyi v Republic](#) (2017) eKLR cited the decision of the Supreme Court of India in [Alister Anthony Pereira v State of Maharashtra](#) where the court held the following on sentencing:-

“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. The courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the courts must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence. As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including social interest and consciousness of the society for award of appropriate sentence”.

9. 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.”

10. The circumstances of the case were that the Accused and the deceased engaged in a heated argument which resulted in the Accused stabbing Jasmine Cherotich Soi occasioning her fatal injuries.



11. The court in *Joseph Kaberia Kabinga & 11 Others v Attorney General* (2016) eKLR had this to say in respect of mitigation:

“But what is mitigation in our context?” Simply understood, the word mitigation means the act of lessening or making less severe the intensity of something unpleasant such as pain, grief or extreme circumstances. It is an act of making a condition or consequence less severe and in our case it is the act of making a punishment or sentence in a criminal case less severe. In *Black’s Law Dictionary* Free Online Legal Dictionary 2nd Ed. mitigation is defined as: “Alleviation; abatement or diminution of a penalty or punishment imposed by law. ‘Mitigating circumstances’ are such as do not constitute a justification or excuse of the offence in question, but which, in fairness and mercy, may be considered as extenuating or reducing the degree of moral culpability.”
12. In Mitigation, counsel for the Accused submitted that the Accused was remorseful for causing the death of his wife and that he was now born again and participated in church activities. Counsel further submitted that the Accused was intoxicated on the material day but he had rehabilitated from alcohol and drugs.
13. In further mitigation, it was submitted that the Accused was a first offender and the breadwinner of his family and his mother. That his child now lacked parental care. The Accused prayed for leniency and a non custodial sentence from the court.
14. The Probation Report filed on 14th July 2022 indicated that the Accused had no criminal history apart from the current case. The community hoped that forgiveness and reconciliation between the two families would be initiated and that they were ready to take an active role.
15. The victim’s family stated that it was painful to lose their daughter at a young age. They described the relationship between the Accused and the deceased as being characterized by mistrust, hatred and unfaithfulness. It was their belief that the offence was committed intentionally.
16. The Accused’s family stated that they were willing to continue with reconciliation as per the Kipsigis customary law and traditions regarding murder cases. They pleaded with the court to issue a lenient Sentence.
17. A Victim Impact Statement Report filed on 14th July 2020 indicated that the family of the deceased were still traumatized by the incident. That the mother who was a single parent had been experiencing terrifying memories, nightmares and flashbacks. She went further to state that she was afraid that she may be attacked by the Accused. She wanted the Accused to be punished as per the law.
18. The victim’s family stated that they had been approached by the Accused’s family for reconciliation but the process failed due to mistrust, misunderstanding and lack of commitment from both sides.
19. After looking at the entirety of these issues, considered the circumstances of the offence, the mitigation from the Accused, the Probation and Victim Impact Statement Report, I am persuaded that a custodial sentence would be appropriate. It is my finding that this offence warrants a sentence that is deterrent in nature, one that denounces the said act as well as ensures community protection. Spousal violence must be condemned and a severe and deterrent sentence would send the correct signal that homes are supposed to be havens of life and peace and not scenes of murder.
20. The sanctity of life must be protected based on the foregoing, the Accused will be better placed in custody where he can seek rehabilitation and reflect on his actions in order to become a better person.



21. I take cognizance that the Accused willingly accepted his crime, was remorseful and saved the Court precious judicial time by embracing plea bargaining. I will factor in the period spent by the Accused in pre-trial custody. In the case Of Bethwel Wilson Kibor v 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”.

22. The Accused is therefore sentenced to eighteen (18) years imprisonment. The Sentence shall therefore run from 14th June 2019, being the date of his arrest.

**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, Ms.Chemutai holding brief Mr.Ngeno for Accused and Kiprotich(Court Assistant).

