



**Republic v Rono (Criminal Case 8 of 2020)  
[2022] KEHC 13145 (KLR) (28 September 2022) (Judgment)**

Neutral citation: [2022] KEHC 13145 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE 8 OF 2020  
RL KORIR, J  
SEPTEMBER 28, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ROBERT KIPYEGON RONO ..... ACCUSED**

**JUDGMENT**

1. The accused was charged with murder contrary to section 203 as read with section 204 of the [Penal Code](#). The particulars of the offence are that on April 2, 2020 at about 2230 hrs at Kiptulwo village within Bomet County, murdered Kipchalo Arap Koske alias Richard Kipchalo Cheborigei.
2. The accused was arraigned before Ongeri J on June 31st, 2020. He pleaded not guilty. When the matter came up for trial before me on March 15, 2021, defence counsel informed the court that the accused wished to pursue plea negotiations with the state. The court stayed the trial to allow parties time to plea bargain.
3. The parties filed plea agreement on July 14, 2022 which the court considered and, upon examining the accused, was persuaded that he understood the plea negotiation process and had executed the agreement voluntarily. The court therefore accepted the plea agreement.
4. The accused was subsequently charged with the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. He pleaded guilty.
5. The facts of the case as read by the prosecution counsel follows:-
  - “(a) on April 2, 2020 at around 2200hrs, the accused arrived home while drunk and shouting at the top of his voice. The noises made by the accused person irritated the deceased, his father, who was already asleep.



- (b) That the deceased then vowed to his wife that he was going to discipline the accused who was in his house about 70 meters from the deceased's house.
  - (c) The deceased then took his black leather whip a torch and proceeded to the accused's house. He then started to beat the accused and a fight broke between the two.
  - (d) Shortly, the deceased stepped out of the accused house and went to his house to collect a rungu which he further used to beat the accused
  - (e) The wife to the deceased and accused's mother who had advised the deceased not to go to the accused's house heard the accused pleading with the deceased to forgive him.
  - (f) The wife then went to the neighbor's house to seek help so that the deceased and the accused can be separated and stopped from fighting.
  - (g) Shortly thereafter, screams were heard emanating from the accused's house and one Maureen Chepkemoi, prosecution witness, found the deceased lying in a pool of blood and the accused was bleeding and unable to walk.
  - (h) The accused confessed to one Maureen Chepkemoi that the deceased was lying in his house after he grabbed him, the deceased, by the neck and threw him on the floor.
  - (i) The accused was rushed to the hospital by the neighbours while the deceased body was collected and taken to Longisa county referral mortuary where post mortem was conducted on April 6, 2020 and the cause of death from the examination was indicated as strangulation and spinal cord injury secondary to assault.
  - (j) The accused person was arrested and charged for murder contrary to section 203 as read with 204 of the penal code on April 14, 2020.”
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. During the sentence hearing on July 28, 2022, the defence counsel submitted in his mitigation as follows:

“We mitigate that accused is 42 years has family with 2 children. He is only breadwinner and also takes care of extended family including the parents.

He is remorseful. Death of his father was not intentional or premeditated. Accused acted in self defence. He suffered injuries inflicted by the deceased. It was clarified as grievous harm. I will supply the P3. He loved his father and had a cordial relationship. He has apologized to the family and they have accepted the apology. They have written a letter to that effect. The accused prays a second chance. He is reformed. Has undergone Christian teaching and is now baptized in the Catholic Church. He hopes to be a peace ambassador. He has saved court time by plea bargaining. He prays for a lenient Sentence. The Probation Report filed on July 27<sup>th</sup> is positive. It shows that accused acted in self defence. That's all.”



8. In addition the accused further handed in a written mitigation which he asked the court to consider. He stated that he regretted the offence and was now a reformed person and pleaded for a second chance.
9. The court called for a pre-trial sentence report. The same was filed on July 21, 2022. The report states that the family members who are also victims of the offence have reconciled themselves to the loss of their patriarch and forgiven the accused. That they wish that he is released for them to undertake traditional reconciliation and cleansing. With respect to the accused, the report states that he was aged 42 and single and that his continued dependence on his parents for evening meals had caused friction as the parents demanded that he gets married so as to stop relying on them for meals.
10. The purposes of sentencing as summarized in the [\*Judiciary Sentencing Policy Guidelines\*](#) at paragraph 4.1 are: -
  - (i) Retribution: to punish the offender for his/her criminal conduct in a just manner.
  - (ii) Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
  - (iii) Rehabilitation: to enable the offender reform from his or her criminal disposition and become a law abiding person.
  - (iv) Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
  - (v) Community protection: to protect the community by incapacitating the offender.
  - (vi) Denunciation: to communicate the community's condemnation of the criminal conduct.

These purposes are not exclusive in themselves and their application is dependent on the unique circumstances of each.

11. I have considered the mitigation offered by the accused as well as the circumstances of the offence. From the probation report it is clear that the accused was a troublesome person who at 42 was harassing his aged parents for evening meals. The circumstances of the offence were caused by his conduct which irritated the father (deceased) leading to a fight.
12. On the other hand, the report states that the family was ready to rehabilitate and reintegrate him. To the mind of the court however, it appears that this was a person who may benefit better from institutional rehabilitation.
13. I have considered that the accused was remorseful. He has stated in his direct submission that he is now a changed person, a child of God and a patriotic citizen who was ready to build the nation and be law abiding. That the time he has spent in remand had changed him and he deeply regrets the loss of his father who was his hero.
14. I have also considered that the accused elected to plea bargain and therefore saved the court precious judicial time. Finally, as required by section 333 of the [\*Criminal Procedure Code\*](#), I have taken into consideration that the accused has been in pre-trial custody since April 14, 2020 a period of 2 years 5 months; which period I have already deducted in imposing the final sentence.
15. Having taken all factors into consideration, it is my conclusion that the accused shall benefit from institutional rehabilitation. The maximum sentence for manslaughter under section 205 of the [\*Penal Code\*](#) is life imprisonment. I shall however, having considered all the aforesaid factors and mitigation grant the accused a lenient custodial sentence which will enable him rebuild his life after being



adequately rehabilitated and afforded relevant skills while in custody. This short prison term will also enable his family undertake any traditional reconciliation or cleansing they may desire upon his release.

16. The accused is sentenced to serve 4 years imprisonment from today. The accused having pleaded guilty has 14 days right of appeal against sentence only.

Orders accordingly.

JUDGEMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 28<sup>TH</sup> DAY OF SEPTEMBER, 2022.

.....

R LAGAT-KORIR

JUDGE

Judgement delivered in the presence of Mr Wainaina for the state, Mr Kipngetich holding brief for Ms Chepkemioi for the accused and Kiprotich (Court assistant).

