



Republic v Kitur (Criminal Case 19 of 2017) [2020] KEHC 9207 (KLR) (17 June 2020) (Sentence)

Neutral citation: [2020] KEHC 9207 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 19 OF 2017
AN ONGERI, J
JUNE 17, 2020**

BETWEEN

REPUBLIC PROSECUTION

AND

ERICK KIBET KITUR ACCUSED

SENTENCE

1. The Accused person in this case, Erick Kibet Kitur (hereafter referred to as the Accused person) was initially charged with murder contrary to section 203 as read with section 204 of the [penal code](#).
2. The charge was subsequently reduced to manslaughter contrary to section 202 as read with section 205 of the [penal code](#) following a plea bargain agreement signed by the Accused Person on 8/9/2021.
3. The particulars of the charge of Manslaughter are that on 29/6/2017 at Seronik Trading Centre in Chepkemelsub location Kaplelartetlocation Sigowet/soinSub County within KerichoCounty, the Accused person unlawfully killed Robert Kiplangat.
4. The facts of the case are given by the prosecutor were as follows;

“On the 29th day of July 2017, at around 17.30hrs the deceased and the accused were at Seronik Trading Centre in Soin/Sigowet sub-county within Kericho County near the accused’s barbers shop.

The accused person demanded that the deceased pay him a debt of Kshs.400/= which he owed him, but the deceased refused saying that he only had Kshs.150/= only which he wanted to use to take some beer and that he would pay him later.

It is at this point that an argument arose where the accused pulled the deceased towards his kinyozi but the deceased was resisting and became violent and wanted to fight the accused, the accused pushed the deceased away. And the deceased started to walk away towards the main road.



The accused person entered his Kinyozi and armed himself with a Panga and followed the deceased whom he caught up with him and slapped him on the back using the said panga which made the deceased to turn around.

The accused slapped the deceased again on the left shoulder this annoyed the deceased who tried to grab the panga that the accused had in his hand but missed, the accused then cut the deceased on the left side of the neck and the deceased fell down as he tried to cut him a second time the panga was held from behind by one Josephat Kiprono Mutai who managed pull back the accused and tried to disarm him but he freed himself and fled to a nearby forest still with the said panga. By this time a crowd had gathered and raised alarm. The deceased was first rushed to Sigowet Sub-County Hospital but referred to Siloam Hospital where he was confirmed dead on arrival by the doctor.

Postmortem was conducted by Dr. Langat who formed the opinion that the cause of death was cardiac arrest and multiple organ failure due to hemorrhagic shock due to bleeding extremely.

Meanwhile the accused person who had run away to hide in the forest after the incident got wind of the deceased's death and went to area assistant chief to surrender where he was later handed over to Sondu Police Station.

The accused was then charged with the offence of murder contrary to section 203 as read with section 204 of the penal code which was reduced to the offence of Manslaughter contrary to section 202 as read with section 205 of the penal code."

5. In mitigation counsel for the Accused person said that the Accused person is a first offender and he had been in custody close to 4 years.
6. Further that the Accused person has had the opportunity to reflect on the offence he committed and that he has since been baptized.
7. The defence counsel also submitted that the Accused person is remorseful and he is asking for a non-custodial sentence since he desires to start his own family.
8. The Probation Officer filed a social inquiry report detailing the family background of the Accused person.
9. The Accused person was born in 1988 and he is still single. He has no record of antisocial behavior prior to this incident.
10. The Accused person pleads for a non-custodial sentence to enable him restart his life.
11. The offence of manslaughter is a very serious one for which the law prescribes life imprisonment.
12. The court has taken into consideration the circumstances of this case and the mitigating circumstances.
13. The Accused person pleaded guilty and he has served the courts time for trial.
14. He has been in custody since 31/7/2017 when he was arrested.
15. I sentence the Accused person to 10 years imprisonment.
16. The sentence to start running from 31/7/2017 when he was first arraigned in court.
17. The Accused person has a Right of appeal against sentence within 14 days of this date (explained)

DELIVERED, DATED AND SIGNED AT KERICHO THIS 17TH DAY OF JUNE 2020.



A. N. ONGERI
JUDGE

