



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mudanyi (Criminal Case 34 of 2015)
[2025] KEHC 404 (KLR) (23 January 2025) (Sentence)**

Neutral citation: [2025] KEHC 404 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 34 OF 2015
SC CHIRCHIR, J
JANUARY 23, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

BENARD MAKANYI MUDANYI ACCUSED

SENTENCE

1. The Accused herein was charged with the Murder of his wife. He later entered into a Plea -bargain with the state which resulted in the Accused pleading guilty to the lesser charge of Manslaughter. He was convicted on his own plea.
2. In mitigation, the Accused told the court that he was a first offender; that he was the sole breadwinner to his 5 children who now have no mother; that he is remorseful. He also stated that he was drunk at the time he committed the offence.
3. He further submits that he lost his parents at a tender age and he suffered as a result, and that a prison sentence will subject his children to a similar fate. He also states that his brother, who is physically challenged, also depends of him. He states that he is still young and therefore a useful member to the society; that he has been in custody since 2015. He prays for a non- custodial sentence.
4. In response, Ms Osoro for the state submitted that the Accused could not have been the sole breadwinner to his children , as he has been in custody for the last 9 years. She further points out that this was a case of domestic violence where the Accused killed his wife and hence he is the one who has rendered his own children destitute.
5. While appreciating that the accused opted for a plea- bargain, she points out that this came after 9 years.
6. I have considered the rival submissions as well as the social inquiry report, conducted at the request of the court.



7. The Accused Plea of remorse is supported by the findings of the probation officer. He is also a first offender . Being a first offender and remorseful are mitigating factors.
8. On his plea for non- custodial sentence ,the social inquiry findings indicate that his 5 children are going to school. This means that they are under some care.
9. The admission of guilt came after a long 9- year trial. The Accused would have spared the court some time to attend to other trials, if he had pleaded guilty at the first opportunity. Thus the guilty plea is noted, but doesn't give the Accused a lot of mileage.
10. I have also considered the circumstances of the offence. A perusal of the facts as presented by the prosecution and established by the probation on the ground, show that though the attack may not have been premeditated , it was vicious. The facts , as read to him, and to which he affirmed to be true ,show that he took two wooden sticks and hit the Deceased with both. He also took a metal rod, heated it and used it to burn the deceased on her thigh. It is apparent that the Accused was not satisfied with just killing the deceased , but he wanted her to suffer much pain before dead .The gruesome manner of the attack aggravates the accused's crime.
11. Further the Accused took the body to the road and came and told his children that their mother had disappeared. Taking away the Deceased's body and placing it on the road was an attempt to deflect attention from himself. The attempt to conceal his crime is also an aggravating factor.
12. Taking all the foregoing into consideration, I sentence the Accused to 20 years in prison. The sentence is deemed to have taken effect from 25/5/2015 being the date when the Accused was first arraigned in court.
13. The Accused has a right of Appeal , limited to the sentence only, within 14 days.

DATED, SIGNED AT DELIVERED AT KAKAMEGA THIS 23RD DAY OF JANUARY, 2025.

S. CHIRCHIR

JUDGE

In the Presence of:-

