



**Republic v Okonji (Criminal Case E053 of 2023)
[2025] KEHC 318 (KLR) (23 January 2025) (Sentence)**

Neutral citation: [2025] KEHC 318 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E053 OF 2023
SC CHIRCHIR, J
JANUARY 23, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSEPHAT MAKECHI OKONJI ACCUSED

SENTENCE

1. The Accused herein was initially charged with the offence of Murder. However following a Plea-bargain with the state, the charge was reduced to manslaughter to which he pleaded guilty to. He was convicted on his own plea.
2. In mitigation, the Accused submitted that he is a first offender. He further states that the killing was accidental, as he was trying to prevent another attack .He is remorseful, he states. He also submits that he has been cooperative, as evidenced by his willingness to bargain.
3. He is a father of 6 children who are still in school. He prays for non- custodial sentence to enable him take care of his children and those of the deceased, who was his brother.
4. He points out that from the social inquiry report, the community back home is receptive to him and they believe that he can be rehabilitated.
5. The prosecutor did not make any submissions.
6. I have considered above mitigation. The Accused is a first offender and he is remorseful. Being a first offender and remorse are mitigating factors. I have also considered the fact that the Accused has pleaded guilty at the earlier date possible, this too is a mitigating factor.
7. I have considered the circumstances of the offence . The deceased was the accused's brother. From the facts read out in court , it emerges that it is the deceased who went to the house of the Accused and a fight ensued over the sale of the family land. It was during the fight that the Accused hit the Deceased



with a ‘rungu’ on the head. The Accused rushed the Deceased to hospital and reported the incident to the police.

8. Earlier the same day , the deceased had caused a commotion in another of his brother’s house, before heading to the accused’s house. It is therefore apparent that the deceased was the aggressor.
9. Therefore circumstances show that the killing was indeed accidental , and not premeditated.
10. Further the Accused’s subsequent conduct of rushing the deceased to hospital, and later reporting the incident to the police are evidence of remorse, regret and lack of intention to commit the crime.
11. The findings of the social inquiry report mirrors the facts as presented before court on the circumstances surrounding the killing. The circumstances before, and after the incident mitigate the Accused’s crime.
12. I have also considered the Accused’s offer to take care of the deceased’s children. This offer is also a mitigating factor as per the judiciary sentencing policy guidelines.
13. However , it must not be lost that a life was lost, which loss need not have happen if the Accused had exercised restraint.
14. In the end , am of the view that the Mitigating factors in this case outweigh the aggravating ones. Accordingly, I hereby sentence the Accused to 7 years in prison. The sentence is deemed to have taken effect from 4/12/2023 being the date when the Accused was first arraigned in court.
15. The Accused has a right of Appeal, limited to the sentence only, within 14 days hereof.

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

S. CHIRCHIR

JUDGE

In presence of:-

Godwin Luyundi- Court Assistant.

