



**Republic v Kibwaro (Criminal Case E040 of 2022)  
[2025] KEHC 362 (KLR) (10 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 362 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYERI  
CRIMINAL CASE E040 OF 2022  
SM MOHOCHI, J  
JANUARY 10, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**EVANS MICHORI KIBWARO ..... ACCUSED**

**RULING**

1. The accused was initially charged jointly with others before this Court, with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; upon a Plea Bargain Agreement being entered the charge was then reduced to manslaughter;
2. The Plea Bargain Agreement dated 15th April, 2024 was adopted by the Court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion;
3. The accused was accused jointly with his five accomplices of having unlawfully killed Grace Wanjiku Kariuki on the 15<sup>th</sup> June 2022 at Mawanga area, near All Nations area, in Nakuru North Sub-County Nakuru County; the accused was convicted on his own plea of 'Guilty' to the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code;
4. Prosecuting Counsel for the State submitted that, on the 14<sup>th</sup> June, 2022, at around 4:00pm, Evans Michori Kibwaro together with his three (3) accomplices whom he had befriended from working together as casual workers at various construction sites within Nakuru. The 1<sup>st</sup> accomplice informed them that there was a task that was to be accomplished the following day but did not give much detail about the said task. They all agreed to meet the following day.
5. On 13<sup>th</sup> June, 2022, at 9:00 am, the accused and his five (5) accomplices met at a playing field near Kingdom Seeker's Church at Bondeni area within Nakuru. The 1<sup>st</sup> accomplice directed and led them to Mawanga area where they went on board two motorcycles. The accused person rode on the 1<sup>st</sup>



- accomplice's motorcycle together with the 1<sup>st</sup> and 2<sup>nd</sup> accomplices. The 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> accomplices rode on the 5<sup>th</sup> accomplice's motorcycle.
6. They reached Mawanga area at around 9:30 am and the 1<sup>st</sup> accomplice directed the 2<sup>nd</sup> and 4<sup>th</sup> accomplice to proceed to a shop near the road and engage the lady at the shop. The lady at the shop was the deceased, Grace Wanjiku Kariuki, who had been left by her mother Esther Njoki Nganga to man their family shop which doubles up as an M-Pesa shop while she proceeded to church for church activities.
  7. The 2<sup>nd</sup> and 4<sup>th</sup> accomplice introduced themselves to the deceased as carpenters who had been sent by her mother to do some repairs to the furniture in the house. The deceased dismissed them after confirming from her mother via phone call that nobody had been sent to the house to carry out repairs.
  8. At the time, the accused person and the 3<sup>rd</sup> accomplice were on the lookout at a distance. The accused saw the deceased making a phone call and the 2<sup>nd</sup> and 4<sup>th</sup> accomplice sneaked into the shop and got hold of the deceased after she had made the call to her mother.
  9. After a short while, the 1<sup>st</sup> and 5<sup>th</sup> accomplice approached the accused and the 3<sup>rd</sup> accomplice. The 1<sup>st</sup> accomplice had a bottle of petrol in hand, The four headed to the shop.
  10. The 1<sup>st</sup> accomplice then placed a knife around the deceased's neck and escorted her to the main house. The 1<sup>st</sup> and 5<sup>th</sup> accomplice took her to one of the bedrooms and killed her. The 5<sup>th</sup> accomplice then came from the bedroom and instructed the accused and the 3<sup>rd</sup> accomplice to go and check whether there was money at the shop.
  11. They proceeded as they were told and found Kshs, 2,500/- in various denominations. The 5<sup>th</sup> accomplice then came and took the money and some Safaricom and Airtel scratch cards.
  12. The three then proceeded back to the main house where they found the 4<sup>th</sup> accomplice had packed a TV make LG 32" in a box. As they were leaving the house, the 1<sup>st</sup> accomplice spilled the petrol which he was carrying earlier into the house, set it alight and the house was engulfed in flames. They then left on board the two motorcycles.
  13. The accused and the accomplices later met at the playing field near Kingdom Seeker's Church at Bondeni area in Nakuru at 5:00 pm where the 1<sup>st</sup> accomplice paid the accused Kshs. 2,000/.
  14. Earlier in the day at around 1:30 pm, the deceased's mother Esther Njoki Nganga received a phone call from her neighbor Margaret Nyambura informing her that her house was on fire. When the fire was brought down, the burnt remains of the body of the deceased was found lying on a burnt bed in the house, burnt beyond recognition and without any sign of struggle or attempt to escape the fire.
  15. The matter was reported at Kiugoini Police Station. The scene was processed and the body of the deceased was later moved to the mortuary.
  16. When an inventory of the scene was taken, Esther Njoki Nganga noted that in the shop, the Kshs. 2,000/- which she had left at the counter and airtime credit cards worth Kshs. 1,150/- which money she had given the deceased to purchase the cards was missing. In the main house, she found that the TV LG make and its remote valued at Kshs. 14,500/- was missing.
  17. Ian Mwangi Kariuki, a resident of the same house and who was not in the house at the time of the robbery, murder and arson, found his techno mobile phone and headphones valued at Kshs. 3,500/ missing and 2 pairs of shoes valued at Kshs. 3,600/ missing.



18. The uncle of the deceased, Elijah Njathi Mwangi identified the body of the deceased during the post mortem conducted by Dr. Titus Ngulungu on 23<sup>rd</sup> June, 2022. The pathologist opined that the cause of death was asphyxia due to pressure to mouth/nose in keeping with smothering in a body with genital trauma and post mortem thermal injury.
19. The accused person was later arrested in Kisii where he had fled after news of killings and house fires within Mawanga area was extensively reported in various news agencies and there was a manhunt for them.
20. At the hearing hereof, the accused was at all times represented by Learned Counsel Mr. Opondo, whereas Ms. Jackie Kisio was the Prosecuting Counsel for the State; both counsels were invited to make submissions before sentencing;
21. The State Recommends an imprisonment for a term, of thirty (30) years.
22. In mitigation counsel for the convict associated himself with the prosecution's submissions that the convict in accepting the Plea Bargain Agreement had not wasted the Court's time; he was extremely remorseful and that has since been cooperating with investigators since his apprehension, he accepts responsibility on the role he played leading to the deceased's death, he is willing to reform and that the sentence to be imposed ought to be a reformatory one that is non-custodial.
23. That the pre-sentence report is unfavorable and buttresses the case for a custodial sentence.
24. Reliance is made on the Muruatetu case and the case of Phillip Mueke urging the Court to exercise of its discretion in sentencing.

### **Analysis**

25. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; this Court has considered the full circumstances of the offence which is contained in the Facts;
26. The applicable law on sentence for the offence of manslaughter is found under the provisions of Section 205 of the Penal Code which reads as follows:

‘Any person who commits the felony of manslaughter is liable to imprisonment for life’
27. The section provides for the maximum sentence, that is life imprisonment; this Court has taken into consideration the aggravating circumstances in that the convict was a member of a vicious criminal gang with a signature mark of Arson after the killings and that the social inquiry established deep concerns of the community members of the heinous crime committed by the accused and his accomplices and that the accused lack social support and or any fixed abode;
28. The mitigating factors taken into consideration by this Court are that the accused readily pleaded guilty and thus saved on judicial time; also taken into consideration are the personal circumstances of the accused that he has also expressed his remorse and is deemed to be a first offender;
29. This Court has equally taken into consideration the advanced age of the convict.

### **Findings & Determinations**

30. Having considered the totality of this case and the unfavourable pre-sentence report, this Court shall impose an imprisonment sentence



31. This Court accordingly imposes an imprisonment Sentence of Ten (10) years to run from the 20<sup>th</sup> July 2022.

It is so Ordered.

**DATED, SIGNED AND DELIVERED AT NAKURU ON THIS DAY OF 10<sup>TH</sup> DAY OF JANUARY, 2025**

.....

**S. Mohochi**

**JUDGE**

