



**Kangari v Republic (Criminal Appeal E083 of 2024)  
[2025] KEHC 1784 (KLR) (11 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 1784 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL APPEAL E083 OF 2024  
DR KAVEDZA, J  
FEBRUARY 11, 2025**

**BETWEEN**

**SARAH WANGARI KANGARI ..... APPELLANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an appeal against the original conviction and sentence delivered on  
12th August 2024 by Hon. M Maroro(PM) at Kibera Chief Magistrate's  
Court Criminal Cases no. E2610 of 2021 Republic vs Sarah Wangari Kangari)*

**JUDGMENT**

1. The appellant was charged and convicted on four counts of forgery contrary to section 345 as read with section 349 of the *Penal Code*. She was sentenced to serve two (2) years on each count to run concurrently. Being aggrieved, the appellant filed an appeal challenging her conviction and sentence.
2. In her petition of appeal, the appellant raised 16 grounds in which she challenged the totality of the prosecution's evidence against which she was convicted. The appellant complained that the trial court failed to consider her defence. Further, the sentence imposed was harsh and excessive. She urged the court to quash her conviction and set aside the sentence imposed.
3. As this is a first appeal, I am required to re-evaluate the evidence tendered in the trial Court and come to an independent conclusion as to whether or not to uphold the convictions and sentences. This task must have regard to the fact that I never saw or heard the witnesses testify (see *Okeno v Republic* [1973] EA 32).
4. The prosecution's case was as follows: PW1 Serah Mweru Muhu, an elderly matriarch, testified that she was the widow of James Muhu Kangari, with whom she had built a family and a business empire spanning Nairobi and Nakuru. Since her husband's passing in 1989, she has shouldered the responsibility of managing their companies—JM & JK Kangari Investments—with the support of her



- children. Among them was her late son, Joseph Kangari, whose passing left no assets in his name and no direct involvement in the family enterprise.
5. The dispute before the court centred around the alleged fraudulent alteration of company records, specifically concerning a rented shop known as Kilimambogo, situated on Mfangano Street in Nairobi. PW1 asserted unequivocally that she had never distributed the family assets nor sanctioned any changes to the ownership of the Kilimambogo shop. Yet, documents had surfaced purporting to show otherwise. She denied ever signing an affidavit effecting these changes and disavowed knowledge of the minutes dated 29th November 2012 produced as prosecution exhibits.
  6. Her daughter, Lucy Waithera Muhu, PW2 a director of J.M & J.K. Investments, testified that she had been stunned to discover in 2017 that her directorship had been unilaterally revoked. While conducting routine company filings, she found that fraudulent resignations—including those of deceased individuals—had been submitted, effectively leaving only the appellant as a director. Among the documents implicating the appellant was a notice of change of directors. PW2 denied ever resigning or signing any affidavits to that effect. She was adamant that her late brother had never lawfully bequeathed any of his holdings to his wife, the appellant, and that no formal succession process had ever been undertaken for his estate.
  7. Her testimony was corroborated by PW3 Lucy Muhu, another family member and company shareholder. She confirmed that all siblings had equal stakes in the enterprise and denied any knowledge of, or consent to the disputed documents. She was particularly troubled by reports that the appellant had personally visited the Kilimambogo shop, instructing tenants to remit rent payments directly to her and her legal representatives. This, PW3 maintained, was wholly illegitimate.
  8. Further evidence emerged from PW4, Virginia Wanjiru Mugo, who categorically refuted the legitimacy of key documents. Notably, she pointed out that Elizabeth Muhu, their deceased sister, had allegedly signed an affidavit and a company document dated 24th January 2011 and 17th February 2014, respectively. Given that Elizabeth had passed away in 1992, Virginia asserted that the signatures were forgeries. Her statements were substantiated by a forensic document examiner, who confirmed that signatures attributed to various family members had been authored by different individuals.
  9. PW7, an official from the Business Registration Bureau, presented records obtained in compliance with a court order. These documents established the sequence of directorial changes, confirming that the appellant had indeed presented and processed the disputed documents.
  10. PW8, the investigating officer, recounted how PW1 had filed the initial complaint regarding the fraudulent alterations. Upon reviewing the company's original records, he found that only three names—Joseph, Serah, and Sarah—had initially been listed as directors. His investigation revealed that the appellant had personally submitted the forged documents to the Registrar of Companies, using letters granting her administration over her late husband's estate as justification. When asked to provide handwriting samples for forensic analysis, the appellant refused but admitted in a signed statement, recorded in the presence of her advocate, that she had effected the changes.
  11. Finally, PW9, Solomon Mwangi Mugo, an advocate, disassociated himself from the allegedly fraudulent affidavits. He denied ever commissioning the disputed documents and confirmed that he had reported the forgery of his professional stamp to the Law Society of Kenya.
  12. In her defence, the appellant maintained that the official company records (CR12) confirmed Joseph Kangari Muhu and Serah Mweru as equal shareholders in the business. She insisted that she had enjoyed a good relationship with the complainant prior to the dispute. She was unable to explain how she had come to be listed as a director in the company records, despite the overwhelming evidence



suggesting fraudulent alterations. She conceded that her name appeared as a director but denied any involvement in the alleged forgeries. When confronted with the signatures in question, she distanced herself entirely, insisting she had no knowledge of how they had been falsified.

13. The appellant was charged with four counts of the offence of forgery. Forgery is defined in section 345, as “the making of a false document with intent to defraud or deceive.” Section 347 deals with making of a document while section 348 defines intent to defraud. Section 349 of the [Penal Code](#) provides as follows: –

Any person who forges any document or electronic record is guilty of an offence which, unless otherwise stated, is a felony and he is liable unless owing to the circumstances of the forgery or the nature of the thing forged some other punishment is provided, to imprisonment for three years.

14. The burden rested on the prosecution to prove, beyond reasonable doubt, that the appellant, with intent to deceive, forged affidavits purportedly sworn by Serah Muhu, Virginia Wanjiru, Lucy Waithera, and Gaciku Kangari. It was further required to establish that these affidavits had been fraudulently commissioned by Solomon Mugo and Koome & Mesa Advocates, that they were false, and that they were intended to defraud.
15. PW1 denied authorising any changes to the Kilimambogo shop's ownership and disavowed knowledge of the disputed affidavit and minutes dated 29th November 2012. PW2, discovered in 2017 that her directorship had been revoked through fraudulent resignations, including those of deceased individuals, leaving the appellant as the sole director. She denied resigning or signing any affidavits and confirmed that no formal succession process had been undertaken for her late brother's estate. PW3, corroborated this, stating that all siblings had equal stakes in the company. She found it irregular that the appellant had directed Kilimambogo tenants to remit rent payments to her, without legal authority.
16. PW4, Virginia Wanjiru Mugo, refuted key documents, noting that their deceased sister Elizabeth Muhu, who died in 1992, had allegedly signed affidavits in 2011 and 2014. A forensic expert confirmed that signatures attributed to various family members were forgeries. PW7, from the Business Registration Bureau, presented records proving that the appellant had personally submitted the fraudulent directorial changes. PW8, the investigating officer, confirmed that the appellant had used forged documents to alter company records but refused to provide handwriting samples for forensic analysis.
17. PW9, Advocate Solomon Mwangi Mugo, denied commissioning the disputed affidavits and reported the forgery of his professional stamp. The forensic document examiner's report confirmed that the signatures on the affidavits did not belong to the alleged deponents. Advocate Solomon Mugo categorically denied commissioning the documents, reinforcing the prosecution's case. The appellant's refusal to provide a handwriting specimen for analysis further undermined her defence.
18. The prosecution successfully demonstrated that the appellant knowingly engaged in forgery by fabricating affidavits, falsifying signatures, and unlawfully altering company records. The forensic analysis, the advocate's testimony, irregular directorial changes, and the appellant's own evasiveness provided compelling proof of her guilt. The evidence was overwhelming, justifying her conviction for forgery. The appellant's conviction is therefore proper and is upheld.
19. The appellant was sentenced to serve two (2) years imprisonment on each count to run concurrently. During the sentencing proceedings, the court considered the appellant's mitigation, the pre-sentence report, and the fact that she was a first offender.



20. Section 329 of the *Criminal Procedure Code*, gives judges and magistrates, in appropriate cases to consider mitigation and mete out a sentence that fits the offence committed despite another sentence being provided for under the Act in which the offence is prescribed. In that regard, I find that the sentence meted out was lawful.
21. The sentencing policy guideline 2023, provides as follows:
  - 3.3.5 Non-custodial sentences – or suspended sentences - should be considered unless, in light of the nature and seriousness of the offence committed and other factors, justice would demand the imposition of a custodial sentence.
22. Upon careful review and consideration of the pre-sentence report, it is evident that the appellant stands to benefit more from a rehabilitative approach rather than a custodial sentence given her advanced age (69 years). It is my considered view that probation would serve a dual purpose. It would facilitate the appellant's rehabilitation by providing structured support and supervision while simultaneously addressing the need to deter future offending. Such an order aligns with the principles of restorative justice and the long-term interests of both the appellant and society.
23. I therefore find it appropriate to substitute the sentence imposed by the trial court with an order of probation for a period of two (2) years.

Orders accordingly.

**JUDGEMENT DATED AND DELIVERED VIRTUALLY THIS 11<sup>TH</sup> DAY OF FEBRUARY 2025**

**D. KAVEDZA**

**JUDGE**

In the presence of:

Mr. Mutuma for the respondent

Musa for the appellant.

Achode – court assistant.

