



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Chirchir (Criminal Case E031 of 2023)
[2025] KEHC 1546 (KLR) (20 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1546 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E031 OF 2023
JK SERGON, J
FEBRUARY 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

BISMARCK KIPROTICH CHIRCHIR ACCUSED

SENTENCE

1. Bismark Kiprotich Chirchir the Accused herein, pursuant to a plea bargaining agreement was convicted with the offence of manslaughter Contrary to Section 202 as read with to Section 205 of the *Penal Code* Cap 63 Laws of Kenya. The particulars of the offence are that, the accused on the 30th day of November, 2023 at Kabitungu Village, Roret Location, Bureti Sub-County within Kericho County, unlawfully killed Mercy Chemutai.
2. Upon convicting the accused person for the aforesaid offence, this court directed the county probation officer to file a pre-sentence report and also invited the accused to make submissions in mitigation to guide the court in determining the appropriate sentence to be meted out.
3. Mr. Kiprono, the Learned Counsel for the Accused, submitted that the offender pleaded not guilty to the lesser charge of manslaughter thereby saving the court time for a lengthy trial. He submitted that the offender was deeply remorseful for the events that culminated in the demise of the deceased, who was his wife. The Learned Counsel submitted that the offender is the sole custodian of three school going children. The Learned Counsel therefore urged this court to exercise leniency during sentencing and consider a non custodial sentence to afford the offender the chance to take care of his children.
4. Miss Maundu, the Learned Assistant Director of Public Prosecutions, submitted that the offender committed a grievous offence, the injuries he inflicted on the deceased resulted in an intracranial fracture. The Learned Prosecutor was adamant that a non custodial sentence was not appropriate and that in the circumstance a deterrent sentence ought to be meted out.



5. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer in respect of the accused person. In the aforesaid report, it is noted that prior to his arrest, the offender was engaged in the business of selling tea leaves to the local tea factories. It was noted that the offender was married to Mary Chemutai (the deceased) and that they were experiencing marital difficulties. It was noted that the offender was callous and had a history of beating the victim to a point of hospitalisation.
6. On the material day, the deceased and the offender quarreled and the offender assaulted her, the victim passed away while being rushed to hospital. The offender maintains that he is remorseful for the offence and therefore urged this court to exercise leniency during sentencing.
7. The family of the victim maintained that the death of the victim was the result of the callous actions of the deceased and therefore urged this court to grant justice to the slain kin. The family of the victim were adamant that for such awful offences a deterrent sentence is appropriate.
8. The offender is well known in the village and to the local administrator. The local administrator reported that he has records when the victim would report the assault by the offender. The local administrator reported that there has been a surge in domestic violence in the community and therefore a deterrent sentence is appropriate.
9. Based on the findings of the social inquiry and assessment, the probation officer found that the offender had a history of assaulting the victim, on the material day he assaulted her and being indifferent to the fatal injuries sustained by the victim left her in the house for two days without proper medical attention in full glare of the children. The probation found that the offender was callous and his actions exhibited disregard for the sanctity of human life. The probation officer deemed the offender suitable for a deterrent and severe sentence in the interest of justice for the victim and the community, subject to this court’s verdict.
10. This court has considered that the accused person was arrested soon after committing the instant offence, he was arraigned and charged on 20th December, 2023 and remanded. The accused made an application for reasonable bail/bond terms, the accused was granted bond of Kshs 300,000/= with a surety of similar amount and was subsequently released on 16th February, 2024 therefore, the accused was in custody for a period of slightly over 2 months. The period served in custody is taken into account before sentencing.
11. I have considered the circumstances of the offence, submissions in mitigation and have further considered the contents of the pre-sentence report filed by the county probation officer in respect of the accused person.
12. I find that the appropriate sentence, in the circumstances of this case should be non-custodial. The deceased left behind young children who require the parental care of the Accused being the only remaining parent. In the end, I sentence the Accused namely: Bismark Kiprotich Chirchir to serve 3 years on Probation under the supervision of the Kericho County Probation Officer.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 20TH DAY OF FEBRUARY, 2025

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J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh



Prosecutor – Miss Okello

Accused – Present in Person

