



**Republic v Too alias Kweru (Criminal Case E004 of 2023)
[2025] KEHC 1903 (KLR) (20 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1903 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E004 OF 2023
JK SERGON, J
FEBRUARY 20, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

GILBERT KIPYEGON TOO ALIAS KWERU ACCUSED

SENTENCE

1. Gilbert Kipyegon Too alias Kweru the Accused herein, pursuant to a plea bargaining agreement was convicted with the offence of manslaughter contrary to Section 202 as read with Section 205 of the *Penal Code* Cap 63 Laws of Kenya. The particulars of the offence are that, the accused on the 1st day of April, 2023 at Jepsom Village, in Kericho East Sub-County within Kericho County, unlawfully killed Raymond Kiprotich Chirchir.
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 accused was deeply remorseful for the events that culminated in the demise of the deceased, the accused and the deceased had a spat over a cellphone which led to an altercation. The Learned Counsel stated that the accused has undergone customary cleansing rites. The Learned Counsel stated that the accused is a first offender and therefore urged this court to exercise leniency during sentencing and consider a non-custodial sentence.
4. Mr. Musyoki, the Learned Assistant Director of Public Prosecutions, stated that the accused may be treated as a first offender as he did not have past criminal records. The Prosecutor stated that the accused attacked the deceased unprovoked, he waylaid the deceased while armed with a kitchen knife. The Prosecutor was therefore in favour of a custodial sentence.



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 employed at a kiosk at Kipchimchim Area.
6. The victim and the offender were good friends, who spent their free time together as they were both casual workers employed by different employers at Kipchimchim Area. On the material day, the deceased and the offender had a squabble over a cellphone and a brawl ensued culminating in the demise of the deceased. The offender maintains that the offence was not premeditated and that he is remorseful for the offence and urged this court to exercise leniency during sentencing.
7. The social inquiry revealed that the offender committed the instant offence at a place of work far from his home area. The offender hails from a humble family background, his mother is married and lives at Chemosot Area. At Chemosot Area, the community and the local administrator are not familiar with the offender. At his work place where the offender has lived for several years, the offender is described as a humble person with no record of committing petty crimes in the community. The family of the offender has not approached the family of the deceased for reconciliatory talks. The family of the deceased are still bitter over the demise of their kin and were adamant that justice ought to be done for their slain kin.
8. Based on the findings of the social inquiry and assessment, the probation officer found the offender suitable for a non-custodial sentence and recommended the offender for placement on a probation order for a period of two years subject to this court’s verdict.
9. This court has considered that the accused person was arrested soon after committing the instant offence, he was arraigned and charged on 17th April, 2023 and remanded. The accused made an application for reasonable bail/bond terms, the accused was granted bond of Kshs. 100,000/= with a surety of similar amount. I have perused the file, it is not clear whether the accused was subsequently released, and therefore, the accused has been in custody for a period of one (1) year and ten (10) months.
10. 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.
11. I have also taken into account the fact that the Accused spent in custody a period of one (1) year ten (10) months. The period served in custody is discounted from the sentence this Court will pronounce.
12. Having considered all the above factors in mitigation, I find that the appropriate sentence should be a short custodial sentence.
13. Consequently, the Accused namely: Gilbert Kipyegon Too alias Kweru is sentenced to serve 11 years imprisonment.

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

J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor – Miss Okello

Accused – Present in Person



