Republic v Amoi (Criminal Case 60 of 2016)
[2025] KEHC 2023 (KLR) (19 February 2025) (Ruling)

Neutral citation: [2025] KEHC 2023 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

CRIMINAL CASE 60 OF 2016

HI ONG'UDI, J

FEBRUARY 19, 2025

BETWEEN

REPUBLIC ..... PROSECUTOR

AND

SAMWEL KIDIGA AMOI ..... ACCUSED

RULING

1. Samuel Kidiga Amoi the accused herein was initially charged with the offence of murder contrary to section 203 as read with section 204 of the penal code. After a full hearing the court reduced the charge to Manslaughter contrary to section 202 as read with section 205 of the penal code, and convicted him of the same.

2. A presentencing report dated 15th January, 2025 was filed by M/s Ondari Lilian a probation officer at Nakuru county station. The officer interviewed both the accused's family and that of the deceased. Upon considering their views, which are set out clearly in the report she left it to the court to determine the appropriate sentence. Mr. Cheruiyot for the accused considered the pre-sentencing report which he explained to the accused and urged the court to give the accused a non-custodial sentence to enable him take care of his children. He submitted that the accused had been in custody from 2016-2019 and later from 2022 to date.

3. M/s Okok for the prosecution while referring to the many femicide cases in Kenya prayed for a deterrent sentence.

4. I have considered the circumstances of this case, the pre-sentence report, the accused's mitigation, the prosecution's submission on sentence and the fact that that the accused is a first offender. From the material on record the accused was not living with his children for him to now say he wants to live with them and show them parental love. The children have not even been living together. One lives with

the paternal grandmother while three live with their maternal uncle. No explanation has been given for this kind of scenario.

5. The accused was granted bond on 18th June, 2019 but he was only able to get a surety on 24th October, 2019. That means he remained in custody from 24th October, 2016 (when he first appeared in court) to 24th October, 2019 which was exactly three (3) years. Further, while on bond, he did not attend court on 23rd June, 2022, 29th June 2022 and 18th July, 2022. When he finally appeared on 9th November, 2022 his bond was cancelled and he was remanded in custody to date which is now two (2) years and three (3) months. The total period spent in custody is therefore five (5) years plus three (3) months.

6. The person the accused killed was his wife and mother to his children. His action has left a lot of pain in the hearts of his in-laws and of course the couple's children. The accused should know that what he did was uncalled for. Upon considering all the factors and the pre-sentencing report, I do not find a non-custodial sentence to be suitable.

7. The accused is hereby sentenced to twelve (12) years imprisonment LESS the five (5) years plus three (3) months spent in remand custody.

Orders accordingly

DELIVERED, DATED AND SIGNED THIS 19TH DAY OF FEBRUARY, 2025 IN OPEN COURT AT NAKURU.

H. I. ONG'UDI

JUDGE