



**Republic v Wangari (Criminal Case E009 of 2023)
[2025] KEHC 1657 (KLR) (7 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1657 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE E009 OF 2023**

A MSHILA, J

FEBRUARY 7, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

JANE WAMUCII WANGARI ACCUSED

RULING

1. The accused was initially charged 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 this charge was then reduced to manslaughter;
2. The Plea Bargain Agreement dated 19th November, 2024 was adopted by the court upon being satisfied that the accused had understood the contents and that she had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion of any kind;
3. The accused was charged with having unlawfully killed Baby CMM on the 14th February, 2023 at Kimende Location in Lari Sub- County, within Kiambu County;
4. The facts as read out by the Prosecuting Counsel are as follows; On 15/02/2023 at 8.00pm the accused returned to her parents house without her 1½ year old son; upon her mother enquiring on the whereabouts of her grand-child the accused became defensive and said that she had taken him to Karatina; the mother was not convinced and proceeded to Kimende Police Post to report an incident of a missing child; Officers came over to interrogate the accused who admitted to mixing Rat/Rat with milk and fed the child with the mixture and later dumped the childs’ body in a pit latrine near their home; she led the officers to the crime scene and the body was retrieved and taken to Naivasha Level 4 Hospital;
5. The post-mortem was conducted by Dr. Peter Ndegwa and the report revealed that the cause of death was drowning; Prosecuting Counsel produced the Post Mortem Report which was marked as ‘PExh.1’;



6. The accused stated that the facts as narrated were correct and the court proceeded to convict her on her own plea of 'Guilty' for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code;
7. The accused was represented by Learned Counsel Ms Magoma whereas Mr. Gacharia was the Prosecuting Counsel for the State; Both counsels were invited to make submissions before sentencing;
8. In mitigation counsel for the accused submitted that at the time of the incident the accused was young and aged 21 years and had gotten pregnant; she was also in an abusive marriage and after giving birth to her son she suffered from post-partum depression; the circumstances leading to the incident arose during this period of depression and she did not know that she could have sought for help;
9. The accused has realized her mistake and was extremely remorseful and regrets the unfortunate incident; during her stay in remand she has been undertaking counseling and wellbeing sessions; her client readily pleaded guilty at the earliest onset and thus saved on judicial time; she prayed for justice to be tempered with mercy; the prosecution had no previous records and that she be treated as a first offender; counsel prayed for a lenient sentence preferably a non-custodial sentence on the grounds that the deceased's grandmother had come to terms with the loss of her grandchild and though still harboring the pain she had since forgiven her daughter and was ready to help her reintegrate back into the community;
10. For those reasons Counsel pleaded for leniency and urged the court to impose a non-custodial sentence to enable the mother and the community to assist with the healing and rehabilitation of the accused.
11. Prosecuting counsel submitted that the prosecution had no previous records of the accused and called for a Victim Impact Assessment Report to assist in the sentencing;

Analysis

12. The applicable law on sentencing 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'
13. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are the accused's failure to seek medical help for her depression after giving birth to the child; she also lied to her mother as to the whereabouts of her son; and the discovery of the missing child was only due to the inquisitiveness of the grandmother;
14. The accused ought to have sought medical help during the post-partum period the failure to do so led to a life being lost; The mitigating factors are the mental status of the accused which led to the unfortunate incident; by accepting the Plea Bargain Agreement the accused had not wasted judicial time; she had no previous record and therefore deemed to be a first offender;
15. Other factors taken into consideration is the Victim Impact Assessment Report; Having perused the Report it is noted that the accused had taken reconciliatory steps with her mother who was still pained by the demise of her grandchild; it is noted that the grandmother had come to terms with the demise of her grandchild and had forgiven her daughter and was willing to assist in her rehabilitation and reintegration back to the community; the accused had also committed to attending counseling sessions and educating and sensitizing mothers-to-be on post-partum depression;
16. The accused was a young lady aged 21 years at the time of commission of the offence; lastly



17. In the light of the mitigating factors this Court is satisfied that the accused is deserving of a second chance and non-custodial sentence to enable her complete her healing process and to pay back to society by sensitizing others on mental well-being pre-natal and post-natal; The accused be and is hereby placed on probation for a Full one (1) year from the date hereof;

Findings & Determinations

18. Having taken all factors into consideration this Court makes the following findings and determinations;
- i. The accused is convicted on her own plea of guilty for the offence of Manslaughter;
 - ii. The accused be and is hereby placed on a one (1) year probationary sentence.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 7th DAY OF FEBRUARY, 2025.

A. MSHILA

JUDGE

In the presence of;

Sanja – Court Assistant

Nyamesa – Prosecuting Counsel for the State

Sinana – for the Accused

Accused - present

