



**Republic v Gathuna (Criminal Case 3 of 2023)
[2025] KEHC 3381 (KLR) (20 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 3381 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 3 OF 2023
DR KAVEDZA, J
MARCH 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

SARAH RUKIA GATHUNA ACCUSED

SENTENCE

1. The accused person Sarah Rukia Gathuna was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#) cap 63 laws of Kenya.
The particulars are that on 7th May 2022 at Kawangware 46, in Dagoretti subcounty, within Nairobi County murdered George Waiyaki Gichure alias Gesho.
2. Following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter contrary to section 205 of the [Penal Code](#) laws of Kenya. The particulars of the offence are that on 7th May 2022 at Kawangware 46, in Dagoretti sub-county within Nairobi county, the accused unlawfully killed George Waiyaki Gichure alias Gesho.
3. On the material day, the accused had attended Kenyatta National Hospital for treatment and returned home at approximately 3:00 PM. She was in her residence with her live-in partner, the deceased. At around 6:00 PM, the deceased instructed PW5, Faith Maximilla Moraa, to purchase alcoholic beverages and deliver them to their home. The accused and the deceased consumed alcohol throughout the night. At approximately 2:00 AM, the deceased expressed his intention to leave the house for a walk.
4. The accused was displeased and suspected the deceased of engaging in an affair with her cousin, Nasma Blume alias Jarika.
5. Upon hearing her name, Nasma Blume, alias Jarika, entered the accused's residence and inquired about her name being mentioned. The accused then directed Nasma to leave with the deceased, insinuating



that she had come for him. The deceased proceeded to collect his belongings in preparation to leave, which aggravated the accused. She physically restrained the deceased and bit his nose. In response, the deceased slapped the accused twice. He then retrieved a knife from the kitchen, handed it to the accused, and challenged her to stab him. In a fit of anger, the accused stabbed the deceased, who succumbed to his injuries.

6. In mitigation, counsel for the accused pleaded for leniency, arguing that the accused was intoxicated, which may have impaired her judgment. Further, he submitted that the families of both the accused and the deceased had reconciled. He requested the court to consider a non-custodial sentence.
7. During the sentencing hearing, the state counsel opposed this request, advocating for a custodial sentence to facilitate the accused's rehabilitation and to serve as a deterrent.
8. The court has reviewed the pre-sentence report, which included the perspectives of the victim's family. The report confirmed that the accused was physically incapacitated due to a fracture and did not exhibit criminal tendencies. Furthermore, it highlighted that the accused lacked parental guidance, which exposed her to sexual exploitation, substance abuse, and emotional distress. In light of these factors, a non-custodial sentence was proposed.
9. Despite the submissions of the accused's counsel, the claim of reconciliation between the families was contradicted by the probation officer's report. The deceased's sole surviving parent remained deeply aggrieved and traumatised by his son's death, explicitly forbidding any engagement with the accused.
10. The accused's family did not make substantial efforts toward reconciliation. Even as the court upholds principles of alternative justice aimed at fostering reconciliation, it is essential that bereaved families are not left with unresolved grievances. It was incumbent upon the accused's family to initiate peace and reconciliation with the deceased's father.
11. Under section 205 of the *Penal Code*, a person convicted of Manslaughter is liable to imprisonment for life. The court has the discretion to impose a lesser sentence depending on the circumstances of each case.
12. In *VMK v Republic* [2015] eKLR ten years in jail was given for manslaughter. I have considered the sentencing objectives in totality. The accused committed the offence under the influence of alcohol, which impaired her mental faculties. The evidence further established that she is a beneficiary of inherited property and has not developed a work ethic, relying on income generated from her parents' estate. It is imperative that she learns to manage these assets responsibly for the welfare of her children and future generations. For these reasons, a non-custodial sentence is not warranted.
13. The accused requires structured rehabilitation in a custodial setting to prevent relapse into alcohol dependency upon release. Additionally, she must acquire the skills necessary to lead a productive and substance-free life.
14. In the premises, I sentence the accused to serve five (5) years imprisonment with effect from the date of her arrest May 17, 2022 pursuant to section 333(2) of the *Criminal Procedure Code*. The accused having entered a Plea Agreement has a right of appeal against sentence only.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 20TH DAY OF MARCH 2025

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D. KAVEDZA



JUDGE

In the presence of:

Maina Prosecution Counsel

Waweru Counsel for the Accused

Tonny Court Assistant.

