



**Republic v Mutai (Criminal Case E001 of 2022)
[2025] KEHC 3042 (KLR) (18 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3042 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E001 OF 2022
JK NG'ARNG'AR, J
MARCH 18, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JACKLINE CHERONO MUTAI ACCUSED

JUDGMENT

1. The Accused, Jackline Cheron Mutai was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#). The particulars of the offence were that on 18th December 2021 at Kapkoros trading center in Sebiyan Sub-Location in Bomet Central Sub- County within Bomet East Sub-County she murdered Paul Kipngeno Yegon.
2. The Accused took plea on 1st February 2022 where she pleaded not guilty to the charge of murder.
3. A Plea Bargaining Agreement was filed on 25th October 2023 and it indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter. On 22nd January 2024, this court accepted the Plea Agreement after interviewing the Accused and satisfying itself that she executed the Plea Agreement voluntarily and that she understood her trial rights.
4. On 18th February 2025, the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to her in the Kipsigis language which she understood and she pleaded guilty. The court entered a plea of guilty for the offence of manslaughter.
5. The Facts as read by the Prosecutor and captured in the Plea Agreement are as follows:-

“On 18/12/2021 at about 1830hrs, the Accused and the deceased who was her lover arrived at their rental home from a drinking spree. A quarrel ensued between the two with the Accused alleging that the deceased had been unfaithful. The Accused was heard shouting that she was going to kill the deceased. She sent her young child to fetch a kitchen knife from the



neighbour's house which she used to stab the deceased severally on his body. The deceased attempted to flee but collapsed while bleeding profusely.

The commotion attracted members of the public who rushed to the scene and escorted the deceased to Kapkoros Health Center for treatment. The deceased was later referred to Longisa County Referral Hospital where he succumbed to his injuries on arrival that evening of 18/12/21.

On 22/12/21, a post mortem was performed on the body of the deceased at Longisa County Hospital with the cause of death being ascertained as hypovolemic shock secondary to severed left femoral artery secondary to stab wounds. The murder weapon, a blood stained knife was recovered.

The Accused was later arrested, arraigned in court and charged with murder which offence has now been commuted to a charge of manslaughter.”

6. The Accused accepted the facts as true and was convicted her on her own guilty plea for the lesser offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#).

Pre-Sentence Report

7. A pre-sentence probation report was filed on 17th March 2025 and it indicated that although the Accused was provoked by continuous beatings by her boyfriend (deceased victim), she regretted her actions and was remorseful. The report further stated that her family had made efforts to reconcile with the victim's family but were turned away. The Accused asked this court for leniency and a non-custodial sentence to enable her be a peace ambassador.
8. The local community through the Chief stated that the Accused was a hardworking member of the community who had not been involved in any criminal activities save for this offence. The local community asked this court for leniency to enable the Accused re-unite with her children.
9. The Probation Officer recommended that the Accused was suitable for community based rehabilitation through Probation for a period of three years.

Victim Impact Statement.

10. The victim's family were aggrieved by his death as he was the family's breadwinner. They further stated that the victim died a very painful death and that they incurred a lot of expense when they ferried the victim's body from Bomet to Narok.
11. The victim's wife stated that since the death of her husband, she had undergone a lot of financial challenges as she was struggling with her two children in secondary school. She asked this court to dispense justice and give the Accused a commensurate sentence. That they were opposed to any lenient sentence but were open to any future reconciliation as per the Kipsigis Customary Law.

Accused's Mitigation

12. The Accused filed her written submissions on Mitigation on 6th March 2025. She submitted that she was a mother of eight children who all depended on her. She further submitted that this court should grant her a non-custodial sentence as her young children would be severely affected by her incarceration.
13. It was the Accused's submission that the victim was her lover and they would often drink and fight. That they were friends and further that she did not flee. It was her further submission that on the



material day, they were both drunk and that she had no intention of ending the victim's life. The Accused submitted that she was remorseful and apologetic.

14. The Accused submitted that she was a first offender and was committed to repair the harm that she had caused through traditional cleansing. She further submitted that a non-custodial sentence would ensure she is fully rehabilitated back into the society. She relied on *Republic vs Ezekiel Lokatukon* (2021) eKLR.

15. It was the Accused's submission that she had been in custody for three years and she had learnt her lesson.

16. Sentencing serves multiple purposes as enumerated in the Sentencing Policy Guidelines 2023 which outline the objectives of sentencing at paragraph 1.3.1 as follows:-

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution.
- ii. Deterrence.
- iii. Rehabilitation.
- iv. Restorative justice.
- v. Community Protection.
- vi. Denunciation.
- vii. Reconciliation.
- viii. Reintegration.

17. The penal section for the offence of manslaughter is contained in section 205 of the *Penal Code* which provides:-

Any person who commits the felony of manslaughter is liable to imprisonment for life.

18. I have considered the circumstances of the case, the pre-sentence report and the Accused's mitigation that she was remorseful and regretted the event. The Accused and the pre-sentence report advocated for a non-custodial sentence.

19. The Sentencing Policy Guidelines 2023 at paragraph 2.3.15 lists the factors that a court should consider when deciding to impose a custodial or non-custodial sentence. They are as follows:-

- i. Gravity of the offence: In the absence of aggravating circumstances, or any other circumstance that renders a non-custodial sentence unsuitable, a sentence of imprisonment should be avoided with respect to sentences that have been adjudged as deserving less than three (3) years.
- ii. Criminal history of the offender: Taking into account the seriousness of the offence, first offenders should be considered for non-custodial sentences except where the seriousness of the offence crosses the custody threshold (where the offence is so serious that neither a fine or community sentence can be justified).
- iii. Children in conflict with the law: Generally speaking, non-custodial orders should be imposed as a matter of course in the case of children in conflict with the law. The exception to this is in



circumstances where in light of the seriousness of the offence, coupled with other factors, the court is satisfied that a custodial order is the most appropriate and would be in the child's best interest. Custodial orders should only be meted out as a measure of last resort and in accordance with the guidance provided under section 239 of the Children's Act, 2022. The court shall also issue post-committal supervision orders upon completion of the committal orders or the attainment of the age of majority where it is appropriate to so do in light of the nature of the offence and circumstances of the offender.

- iv. Conduct of the offender: Non-custodial sentences are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
 - v. Protection of the community: Where there is evidence that the offender is likely to pose a threat to the community, a custodial sentence may be more appropriate. The probation officer's reports should inform the court of the risk posed by the offender to the community in order to inform sentencing.
 - vi. Offender's responsibility to third parties: Where committing an offender to a custodial sentence is likely to unduly prejudice others, particularly vulnerable persons who depend on them, a court should consider if, in light of the nature and seriousness of the offence, the objectives of sentencing can be met with a non-custodial sentence. The court should enquire into the offender's personal circumstances and, where appropriate, seek the assistance of a pre-sentence report.
20. In the final analysis, it is my finding that this was not a suitable case for grant of a non-custodial sentence. A life was lost and the circumstances under which the victim lost his life were avoidable. Thus, the Accused must serve a custodial sentence to deter other like-minded people who want to hide behind the vice of alcoholism. In the end, the Accused is sentenced to serve 12 years' imprisonment. Sentence to run from 1st February, 2022 when accused was arraigned in court for plea taking. 14 days right of Appeal.

Orders accordingly.

SENTENCE DELIVERED, DATED AND SIGNED AT BOMET THIS 18TH DAY OF MARCH, 2025.

.....

HON. JULIUS K. NG'ARNG'AR

JUDGE

Sentence delivered in the presence of Mr. Njeru, for the State, Barusei for the Accused and Siele/Susan (Court Assistants).

