



**Republic v Khakali (Criminal Case 2 of 2017)
[2025] KEHC 3290 (KLR) (13 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 3290 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 2 OF 2017
SC CHIRCHIR, J
MARCH 13, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

RAPHAEL AMBOSO KHAKALI ACCUSED

SENTENCE

1. The Accused herein was convicted of the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. Thereafter a social inquiry report was conducted by the probation office at Kakamega.
2. In mitigation, the accused submitted that he was remorseful and was a first-time offender; that he has been in remand since 2017 and that period has helped him reformed and changed his perspective in life. He further submits that he has acquired several skills while in custody, which he would want to go and share with the young people in his community. He prays for a non- custodial sentence.
3. Ms Osoro for the state submits that the accused is not remorseful as evidenced by the fact that he still denies the offence; that the Bible studies he alleges to have undertaken has not persuaded him to speak the truth, and to seek for forgiveness. She further points out that according to the social inquiry report, the community back home does not wasn't him back.
4. I have considered the parties' submissions. Remorse and being a first- offender are mitigating factors.
5. On the other hand, it is not lost to this court that human life was taken away in a brutal and vicious manner. According to the pathologist, the deceased sustained 9 stabbed wounds ranging between 9cm x 1.5 cm to 2.5 cm in size, and some of them penetrated deep into the brain.
6. Further, according to the first prosecution witness the deceased, who was the accused's father, was elderly, was unwell and he was lying on bed when he was attacked. The accused took advantage of a



person who was vulnerable. Taking advantage of the vulnerable, who include elderly persons like the deceased herein is an aggravating factor.

7. Further though the pleaded remorse, his conduct before and after conviction, did not show any remorse. He continued to deny the offence and continues to fault his relatives for framing him.
8. There was also evidence that the accused attacked other persons that night, some of whom were prosecution witnesses in this case.
9. The Accused was examined at the commencement of trial and he was found to be mentally sound. This the vicious and unprovoked attack had nothing to do with any mental disorder.
10. I therefore agree with the prosecuting counsel that the Accused is deserving of a severe punishment.
11. Taking into considerations all the foregoing, I hereby sentence the Accused to 40 imprisonment. The sentence is deemed to have taken effect from January 26, 2017 being the date when he was first arraigned in court.
12. Right of Appeal: 14 days.

DATED, SIGNED AND DELIVERED VIRTUALLY AT ISIOLO , THIS 13TH DAY OF MARCH 2025.

S. CHIRCHIR.

JUDGE.

In the presence of:

Godwin Luyundi – Court Assistant.

Ms. Abunga: For the Accused

The Accused

