



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Towett (Criminal Case 13 of 2020)
[2025] KEHC 2607 (KLR) (11 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 2607 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 13 OF 2020**

**JM NANG'EA, J
MARCH 11, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSEPHAT KIPKOECH TOWETT ACCUSED

SENTENCE

1. The accused had been arraigned in court charged with the capital offence of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence state that on 16th December, 2018 at Sururu Location, Njoro Sub County, in Nakuru County, jointly with another not before court, he murdered Fancy Chepkemoi Birir (hereinafter referred to as “the deceased”). The accused pleaded “not guilty” to the charge.
2. Subsequently, the charge was reduced to Manslaughter Contrary to Section 205 of the *Penal Code* following plea bargain between the prosecution and the accused. The later pleaded guilty of the lesser offence and was accordingly convicted.
3. The defence Counsel (Mr. Ooga) made mitigation submissions. He urged the court to take into account that the offender agreed to enter into plea bargain; the fact that the deceased was the offender’s wife with who he had children who are dependent on him; the youthful age of the accused at thirty five (35) and that he is remorseful and he is reconciling with the deceased’s family.
4. The court is further told that the convict was been in remand custody for two (2) years before his release on bond which Mr. Ooga opines to be sufficient punishment. It is submitted that a non-custodial sentence is appropriate in the circumstances so that the offender is counselled on anger management.
5. Ms Sang, the Prosecution Counsel, informed, the court that the convict has no previous criminal records. Counsel agrees that he is remorseful and credits him for the Plea Agreement. Nevertheless, Ms



Sang notes that the attack on the deceased was brutal and caused serious psychological effects on her relatives. Counsel thinks that a custodial sentence is warranted in the circumstances.

6. I have considered Counsel Submissions and the Probation Officer's Report dated 21st January 2025. It is confirmed that reconciliation between the deceased's and the convict's families took place in the traditional manner. The deceased's family is, however, said to be still bitter and wants the accused to be punished. The local administrators are said to favour a non-custodial sentence owing to the reconciliation between the concerned families.
7. For the stated reasons inter alia the Probation Offender appears to recommend a non-custodial sentence but considering the deceased's relatives' bitterness she leaves the matter "to the discretion of the court."
8. I have taken into account all the relevant factors. The court is also guided by the operational Judiciary's Sentencing Policy Guidelines, 2023. Despite the many extenuating factors, the offender perpetrated a vicious assault on the deceased who relied on him for protection. The court concurs with the prosecution that a custodial sentence is necessary for deterrence.
9. The upshot is that the offender is sentenced to twelve (12) years imprisonment for the offence. It is noted from the record that he was in custody between 29th February 2020 and 27th January 2021 a period of about one (1) year and after which he was released on cash bail pursuant to Section 333(2) of the [Criminal Procedure Code](#) this period is discounted in computing the final sentence. Cash bail be refunded to the depositor.
10. It is ordered accordingly.

J. M. NANG'EA - JUDGE

Ruling delivered this 11th day of March, 2025 in the presence of:

Ms Sang for the DPP

Mr. Ooga advocate for the defence

Accused, present

Court Assistant (Jeniffer)

J. M. NANG'EA - JUDGE

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