



**Republic v Chebet (Criminal Case E004 of 2024)  
[2025] KEHC 2312 (KLR) (6 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 2312 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
CRIMINAL CASE E004 OF 2024  
RB NGETICH, J  
MARCH 6, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**WESLEY KIPROP CHEBET ..... ACCUSED**

**SENTENCE**

1. The accused Wesley Kiproop Chebethad been charged with the offence of murder contrary to section 203 as read with Section 204 of the Penal Code. The particulars of the charge were that the accused person on the 2<sup>nd</sup> day of April,2024 at Kasire village, Kapluk Sub-location in Baringo North Sub-County within Baringo County, murdered one Samuel Kiprotich Kimgeny.
2. The Accused denied the charge but when the matter came up for hearing on the 24<sup>th</sup> September, 2024, the defence counsel Mr. Kipkulei informed the court that the accused’s family were requesting for time to meet with the victim’s family and see if they can reconcile. The prosecution welcomed the application by the accused stating that they had intended to try plea bargain. Following this development, the court directed that the matter be mentioned on the 28<sup>th</sup> October,2024 to confirm the position on plea bargain.
3. On the 28<sup>th</sup> October,2024 the defence counsel Mr. Kipkulei counsel informed the court that parties had agreed and filed minutes. On the 21<sup>st</sup> November,2024, the plea agreement was duly executed and the charge was reduced to manslaughter. Thereafter, the charge and its particulars were read over and explained to the accused person to the offence of manslaughter as provided for under section 202 as read with section 205 of the Penal Code and he was convicted on their own plea of guilty.



## **Brief Facts Of The Case**

4. Facts surrounding this case are that on the 3<sup>rd</sup> April,2024, a murder incident was reported at Barwesa police station vide OB No 4 of the same date. The scene was visited and it was established that one Samuel Kiprotich Kipngeny had been killed and his body was lying on the floor over what was suspected to be internal injuries from a fight as there was no visible external injuries. The scene was processed and the body moved to Baringo County Referral hospital for autopsy.
5. One Winny Chepkorir stated that on 2<sup>nd</sup> April,2024 while at her home with her siblings, the accused greeted her from outside her house and the accused Wesley told her that he was going to his house. A few moments thereafter, she heard a commotion outside where she was, she heard the accused say, “I will kill you”. She immediately went out of her house and saw the accused quarrelling with the deceased.
6. That the heated argument between the accused and the deceased turned into a fight and the accused hit the deceased with a fist on the abdomen. The deceased also took a stone wanting to hit the accused but he was unable. The said Winny together with one Ramacha Kipsang tried to separate the 2 from fighting and the deceased and the accused went separate ways after the separation.
7. That at around 7P.M, Wesley Kibet returned back to Winny Chepkorir and asked her what had transpired during his fight with the deceased because he could not remember. The accused was informed by Winny that they had witnessed him hitting the deceased on the ribs. Wesley then informed Winny that the deceased had passed on and warned her not to tell anyone.
8. Postmortem was conducted on 18<sup>th</sup> April,2024 at Baringo County referral hospital by Dr. Barmokong who formed opinion that the cause of death was due to massive hemorrhage secondary to blunt abdominal injury. The accused was arrested and booked at Mogotio police station before being escorted to Kabarnet police station on 19<sup>th</sup> April, 2024. Police file was compiled and he was charged with the offence of murder now reduced to manslaughter following plea bargain.
9. The court directed that a pre-sentence report be filed before mitigation and a copy to be supplied to the prosecution and defence counsel and the matter fixed for mitigation on the 13<sup>th</sup> February,2025.

## **Mitigation**

10. The defence counsel Mr. Kipkulei mitigated on behalf of the accused. He stated that the accused is a young man aged 34 years with children though he separated with his wife. He stated that he is the sole bread winner and the deceased was his friend whom they had interacted and worked together for long and at the time of the incident resulting in his death, they had passed by a place to take beer and proceeded home where an altercation ensued out of provocation and anger; the two fought and in the process, the accused hit the deceased inflicting the injuries which he succumbed to.
11. Counsel submitted that the accused had not planned to kill the deceased and his action was out of rage and provocation. That the deceased and the accused were neighbors; that they lived harmoniously and out of the good relationship, the two families have reconciled and have forgiven the accused. He stated that the convict is remorseful and prays for a probation sentence; that he has reformed and regrets his actions; and from the probation officer’s report, the accused is fit to be placed on probation.

## **Pre-sentence Report**

12. From the report, the accused did his KCPE in the year 2009 and managed to score 298/500 but did not proceed with his education due to financial constraints at family level. In the year 2010, he started



working as a casual worker at community level. The offender was married but separated. He is blessed with two children who are currently staying with their mother.

13. The accused's brother stated that they met the deceased's family and they have reconciled and compensated the deceased's family with a few cows and at the moment, they are relating very well. He urged this court to grant the accused a non-custodial sentence so that he can restart his life a fresh and continue taking care of her daughter. The accused's mother also prayed for non-custodial sentence. She stated that the deceased was a relative and confirmed that they have reconciled and currently, they are relating very well. She attributed the offence to applicant's excessive alcohol consumption, poor anger management skills and peer influence.
14. Home reports indicates that on the date of the offence, the offender went towards the deceased house and while there, they had a disagreement and during altercation, the accused hit the deceased with a fist on the abdomen leading to his death. The offender indicates that he committed the offence under the influence of alcohol.
15. The deceased's father stated that the accused is aged 40 years old and had married twice but separated with the two wives. He confirmed that he is blessed with two children who are staying with their mother. He indicated that the cleansing process has already taken place and have already received a cow as a family. He added that currently, the two families are relating very well and there is no animosity between the two families. His family are not opposed to community rehabilitation sentence.
16. The accused admits the charge and says he committed the offence under the influence of alcohol. He stated that while in custody, his family and victim's family reconciled and a cow was given to the deceased's family. He prays for non-custodial sentence so that he can restart his life a fresh and take care of his children.
17. The local administration confirmed that the two families are relating very well and he is aware of reconciliation meeting that took place between the two families. He did not oppose the accused being sentenced to a non-custodial sentence so that he can take care of his children. He also confirmed that there is no animosity towards him at community level.

### **Determination**

18. Under section 205 of the *Penal Code* a person convicted of Manslaughter is liable to imprisonment for life. However, the court in Malindi Criminal Appeal No 12 of 2021 between *Julius Kitsao Manyeso v Republic* declared life imprisonment unconstitutional.
19. From presentence report and facts presented by the prosecution counsel, the accused and deceased were both drunk at the time of the incident; the act was not planned and the families of the accused and deceased have reconciled. The victim's family have been compensated by the accused's family. The local administrator confirmed that there is no animosity between the two families and there is also no animosity from the community to the accused. They are not opposed to non-custodial sentence. I also take note of the fact that accused is first offender and the fact that he has saved this court's precious time by pleading guilty to a lesser charge of manslaughter. In view of the above, I am inclined to impose non-custodial sentence.
20. Final Orders: -
  1. Accused to serve 3 years' probation sentence
  2. Right of appeal 14 days.



**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 6TH DAY OF MARCH 2025.**

.....

**RACHEL NGETICH**

**JUDGE**

In the presence of:

Ms. Bartilol for State.

Mr. Kipkulei for accused present.

Applicant present.

Elvis/Momanyi – Court Assistants.

