Republic v Sawe & another (Criminal Case E017 of 2021)
[2025] KEHC 2632 (KLR) (5 March 2025) (Judgment)

Neutral citation: [2025] KEHC 2632 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT ELDORET

CRIMINAL CASE E017 OF 2021

RN NYAKUNDI, J

MARCH 5, 2025

BETWEEN

REPUBLIC ..... PROSECUTION

AND

JAMES SAWE ..... 1ST ACCUSED

MOSES MABUKU KISAMBU ..... 2ND ACCUSED

JUDGMENT

1. The Accused herein was charged with the offence of murder contrary to section 203 as read together with section 204 of the *Penal Code*. The Particulars of the offence were that on the 4th day of March 2021, at Kipkaren (Mau estate, Pioneer Location, within Uasin Gishu County jointly murdered one known as Rasta Mrefu.

Prosecution Case Summary.

2. The prosecution called 4 witnesses in support of their case who testified as follows;

3. PW1- Charles Chimasasi Juma testified that on 4th March 2021 while he was at Sosiani River washing his motor cycle, he heard footsteps and saw the Deceased running towards him while pleading with others behind him to forgive him. He saw stones being pelted towards the Deceased and took cover in fear for his life. He however was able to see the two men properly from where he was hiding beating the Deceased. PW1 later went and informed his fellow bodaboda drivers what he had seen and led the other riders to the scene. He reported the matter to the Yamumbi Police Station.

4. PW2- Richard Tanui who is a village elder at Roho Moja Village testified that on 4th March 2021, he was in his house when the 2nd Accused person who he knew as "Mose" came to him reporting that he and another had thrown stones at the Deceased thereby killing him because they thought that he

was vandalizing a perimeter wall with barbed wire. PW2 acted by calling the OCS Yamumbi who was taken to the scene by the 2nd Accused.

5. Chief Inspector Richard Bitok testified as PW3 producing the ID Parade forms as Exhibits 1 A & B and in which PW1 and 1 other identified the 2 Accused Persons as the persons present at the River Bank on the fateful day and were seen stoning the Deceased.

6. PC Okatch testified as PW4 stating that when he was minuted the case on 6th March 2021, the 2 Suspects had already been arrested and were at the station. He then asked for custodial orders where he began his investigations by recording the statements, oversaw the ID Parade and the Post Mortem exercise where the Pathologist concluded that the cause of death was severe head injury due to blunt trauma. The Form was produced as Exhibit 2. From the evidence collected, the IO formed the opinion that the 2 Accused persons were therefore responsible for the death of the Deceased.

Defense case Summary.

7. At the close of the prosecution case, the accused persons were placed on their defence on which they gave unsworn statements with the following highlights;

8. The 1st Accused placed himself at the scene of crime stating that he saw the Deceased (a thief) running away and saw people throwing stones at him. He however made no mention of these people and denied being among the group of people who stoned the Deceased.

9. The 2nd Accused stated that he was with the 1st Accused in his compound when he noticed the Deceased in his shamba. Upon asking the Deceased why he was in there without permission, the Deceased became aggressive and began throwing stones at the duo. The 2nd Accused then alleges that he hid from the Deceased and only realized later that he (Deceased) had been subjected to mob injustice by people unknown to him.

10. This marked the close of the Defense case

Prosecution submissions.

11. In support of the prosecution case, the learned prosecution counsel canvassed her case by way of written submissions dated 17th February 2025 urging this court to find that all the ingredients of the offence of murder have been proved beyond reasonable doubt to warrant the court to find the accused persons guilty and have them convicted of the crime as initially charged of causing the death of RASTA MREFU. She buttressed her arguments by placing reliance on the following authorities:

    a. *Kaburu v Republic (Criminal Appeal 103 of 2023)* [2024] KECA 536 (KLR),

    b. Republic v Ali Kajoto Ali [2021] eKLR

    c. Ernest Asami Bwire Abanga alias Onyango v R CACRA No. 32 of 1990

    d. Odhiambo v Republic (Criminal Appeal E013 of 2023) [2024] KECA 571

    e. Ahamad Abolfathi Mohammed and Another v Republic [2018] Eklr

12. Learned Counsel for the Prosecution Sidi Kirenge in her submissions invited the court to make a finding that the offence of Murder contrary to section 203 of the *Penal Code* has been established beyond reasonable doubt.

Analysis and Determination.

13. Having considered and examined the 4 prosecution witnesses and further the rebuttal testimony by the defense, the inquiry by this Court is to subject every piece of evidence to establish whether the following elements of murder have been proved beyond reasonable doubt;

    i. The fact of death

    ii. The fact that the deceased's death was caused by an unlawful act or omission.

    iii. That the accused committed the unlawful act which caused the death of the deceased; and

    iv. That the accused had malice aforethought.

14. The master piece legislation which is the *Evidence Act* gives crystal guidelines under section 107(1), 108 & 109 on the standard and burden of proof vested with the prosecution to establish the existence of facts in issue, to proof or disapprove that the offence of murder indeed was committed and the culpability of it is squarely within the knowledge of the Accused persons. The Black's Law Dictionary puts it more succinctly on the degree of higher level required in criminal cases conceptualized as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it. that is evidence as a whole show that the facts sort to be proved is more probable that not. This is in contrast with the balance of probalities in civil cases. The Learned Author Granville Williams in his book Criminal Law 2nd Edition explained this concept of reasonable doubt as follows: that it is the business of prosecution to bring home the guilt of the accused to the satisfaction of the minds of the Jury or Judge, but the doubt to the benefit of which the accused is entitled to must be such as rational thinking, sensible man fairly and reasonably entertain, not the doubt of a vacillating mind that has not the moral courage to decide but shelters itself in a vain and idle skepticism. There must doubt which a man may honestly and consciously entertain.

15. Certainly, it is a primary principle in law within our jurisdiction that the accused must be and not merely maybe guilty before a court can convict him or her of any offence initiated and prosecuted by the prosecution under Article 157(6 &7) of *the Constitution*. The facts so established should be consistent only with the hypothesis of the guilt of the accused that is to say there is no any other explanation which is traceable to the defense to destroy or dislodge that hypothesis of beyond reasonable doubt. It is also settled law in Kenya that the suspicion against the accused person however strong it maybe cannot take the place of proof of beyond reasonable doubt.

16. In the locus classicus case of Denning J, as he then was in Miller v Ministry of Pensions [1947] 2 AII ER 372

> "that degree is well settled. It need not reach certainly, but it must carry a high degree of probability. Proof beyond reasonable doubt does not mean proof beyond a shadow of doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour which can be dismissed with the sentence 'of course it is possible but not in the least probable' then the case is proved beyond reasonable doubt, but nothing short of that will suffice."

17. The factual matrix of this case will be subjected to the standard and burden of proof beyond reasonable doubt as set out in the above dicta set out in detail by this Court. Briefly stated, the instance which culminated in the death of deceased RASTA MREFU and the consequent prosecution of the accused persons occurred on 4th March 2021. It is on record that the case for the prosecution is both direct and

circumstantial evidence. In so far as the direct evidence is concerned, the events of the fateful day are clearly articulated to by Charles Chemasasi PW1, who witnessed the deceased running towards Sosiani River and in oath pursued were the accused persons armed with stones and pelting them targeting them at the deceased person. This incident resulted in the deceased being beaten and on account of it serious injuries were inflicted upon him as reflected in the post mortem examination report which was relied upon by the prosecution and admitted as documentary evidence marked Exhibit 2.

18. According to PW1, was from those acts of assault that the deceased fell down in the river and apparently suffered fatal injuries. Given that background of the chain of events, PW1 told the Court that he reported the matter to the police station from which investigation of the case was taken up by PC Okatch of Langas Police Station. The post mortem examination of the deceased revealed that a depressed scalp fracture, right parietal region, sub dural haematoma. According to the pathologist Dr. Nalianya, the death was caused by severe head injuries due to blunt trauma. Thus in a considered view, the death of the deceased is not being dispute by dint of the documentary evidence of the post mortem report dated 11th March 2021. In addition, the prosecution case has analyzed earlier is that the deceased was being chased by the accused persons who were harmed with stones and the said weapons were the ones being used to inflict the serious injuries. There were no exchange of words or quarrels or a sudden fight which in turn maybe culminated in the decease being hit with the stones unfortunately on a vital part like the head. In this incidence, the weapon used were lethal and they were targeted at the most vulnerable parts of the body and with that manipulation by the accused persons, the effect of it was lethal as PW1 narrated to the Court, the deceased collapsed to the ground of the river on account of that assault. The cumulative effect of all these circumstances in my considered view is that the death of the deceased was unlawfully caused.

19. The next question then is whether the case falls in section 203 of the *Penal Code* on the offence of murder caused by malice aforethought. In reference to this, the citation of section 206 of the *Penal Code* is of significance to lay the foundation on what constitutes malice aforethought. This section provides that:

> " 206. Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances—
>
> (a) an intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;
>
> (b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused; (c) an intent to commit a felony; (d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony."

20. In the case of *Kaburu v Republic (Criminal Appeal 103 of 2023)* [2024] KECA 536 (KLR), the Learned Judges of the Court of Appeal stated as follows:

> "Malice aforethought shows the killer's state of mind at the time of the murder, their thoughts about the murder before committing it, and the steps taken to facilitate the murder. Express malice is when a deliberate intention is manifested to take away the life

> of a person unlawfully.... If it is shown that the killing resulted from an intentional act with express or implied malice, no other mental state need be shown to establish malice aforethought."

21. Malice aforethought can easily be inferred from the nature of the injuries inflicted on the deceased, the weapon used, the parts of the body stabbed with the knife and the Accused's conduct prior to the commission of the offence as was opined by the Learned Judge, Hon R. Nyakundi in Republic v Ali Kajoto Ali [2021] eKLR:

> "The formulation of the Law on manifestation of malice aforethought is as illustrated in Tubere s/o Ochen [1945] 12 EACA 63. The relevant characteristics contributing towards the death being considered as being committed with malice aforethought include the nature of the weapons used, the manner it was used to inflict the injuries, the parts of the body targeted whether vulnerable or not, the nature and gravity of the injuries, and the conduct of the accused before, during and after the incident."

22. What is intriguing from the circumstances of this case is clear evidence from the prosecution as what could have been the motive of this attack that the accused persons unlawfully inflicted the fatal injuries while knowing such acts were likely to cause death. In the analysis of the evidence in this case as nobody has the competence and the capabilities to enter into the mind of the accused persons, manifestation of malice aforethought can only be gathered from the weapon used, the part of the body chosen for assault and the nature of the injuries caused. For our case, it is self-explanatory of the Autopsy Report duly exhibiting serious injuries suffered to the head and soon thereafter the deceased succumbed to death. The evidence of PW1 is more telling to prompt this Court to conclude that the accused persons while chasing the deceased and simultaneously harmed with stones had the knowledge accompanied with the necessary intention that by targeting their weapons towards the head of the deceased, the outcome of it was to inflict serious bodily harm with a high chances of occasioning fatal injuries. So what the accused persons intended can only be inferred by what they did in using excessive force against the deceased. It is a general rule in criminal law and one founded on common sense that a trial like the one I am presiding over against the accused persons must presume a man or woman to do what is the natural consequence of his or her acts of omission. The consequences envisaged by the law under section 203 of the *Penal Code* for the offence of Murder is sometimes so apparent as to live no doubt of the intentions of the accused persons who committed the offence. The import of the accused actions can be compared with a man who harms himself with a pistol loaded with ammunitions and fires it off targeting another human being and that human being suffers fatal injuries the material manifestations will be he committed the acted of killing with malice aforethought.

23. Looking at the nature of the evidence, the injuries sustained by the deceased and the circumstances as enumerated above by the 4 prosecution witnesses, the conclusion is irresistible that the death of the deceased was caused by the unlawful acts of the accused persons done with malice aforethought.

24. Finally, the one-million-dollar question is whether the accused persons were positively identified to be the perpetrators of the offence of murder against the deceased. The guiding principles on identification are crystal clear from the dicta in the following cases: Roria v Republic [1967] EA.583 and in the case of Abdalla Bin Wendo & Another v R 20 EACA 168 in which the Court stated as follows;

> " subject to certain well-exemptions, it is trite law that a fact may be proved by the testimony of a single witness but this rule does not lessen the need for testing with the greatest care the evidence of a single witness respecting identification, especially when it is known that the conditions favoring a correct identification were difficult. In such circumstances what

is needed is the evidence, whether it was circumstantial or direct, pointing to guilt, from which a judge or jury can reasonably conclude that the evidence of identification, although based on the testimony of a single witness, can safely be accepted as free from error."

25. Coming back to the case at hand, PW1 in his evidence said that the incidence happened during broad daylight while he was undertaking his personal chores at River Sosiani, he was able to identify the physical features of the accused persons as they chased the deceased inflicting the fatal injuries. Thereafter, after the conclusion of the investigation, an identification parade was carried out by the Chief Inspector Richard Kibor in which PW1 positively identified the accused persons. The identification parade forms were admitted in evidence as Exhibit 1 (a &b) in support of the Prosecution's case placing them at the scene of the crime. In the premises therefore, there is no contrary evidence as to the identification being mistaken or an error apparent on the face of the record or that it can be said that accused persons raised a strong Albi defense to deconstruct appropriately the aspect of positive identification at the scene.

26. The ingredients of this offence no doubt cannot be complete without a commentary on the doctrine of common intention under section 20 of the *Penal Code*. It basically involves a conspiracy of two or more people forming a common intention to do an unlawful act. The essence of common intention is the fact of combination by agreement which may be express or implied from the circumstances of the offence. It is observed from the testimony of PW1 that the accused persons were acting in concert, harmed with stones pursuing a common target being the deceased and each hitting the deceased's head with the stones on their possession. In our legal system it is trite that when two or more persons combine in an undertaking for an illegal purpose, each of them is liable for anything done by the other or others of the combination, in furtherance of the objective if what was done was what they knew or ought to have known would be a probable result of their endeavoring to achieve the objective. The essence of the doctrine of common intention is that two or more persons having a common purpose to commit a crime act together in order to achieve that purpose, the execution of it is imputed to have placed them on the same culpability of intention. Basically, on the foregoing reasons, the requirements of the offence of Murder contrary to section 203 of the *Penal Code* have been met to call upon this court to find each of the accused persons guilty jointly and severely with its far reaching implications of being convicted of the offence which shall be punishable under section 204 of the *Penal Code*. In passing the sentence, both the prosecution and the defense are called upon to file submissions for the sentence hearing scheduled on the 3rd of March 2025.

Ruling On Sentence

27. The accused persons before this court, James Sawe and Moses Mabuku Kisambu, stand convicted of the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The court, in its judgment delivered on 19th February 2025, found that the prosecution had established beyond reasonable doubt that on 4th March 2021, at Kipkaren (Mau estate), Pioneer Location within Uasin Gishu County, the accused persons jointly murdered one known as Rasta Mrefu by stoning him to death. The evidence presented during trial revealed that the accused persons pursued the deceased to Sosiani River, targeting him with stones that struck his head, causing severe traumatic brain injuries that ultimately led to his death. The post-mortem examination, which was tendered as evidence during trial, confirmed that the deceased suffered a depressed scalp fracture in the right parietal region and subdural hematoma, conclusively establishing that death resulted from severe head injuries due to blunt trauma.

28. During the sentencing herein, the learned counsel Mr. Mathai on behalf of the accused invited the court to consider the following factors mitigation:

In the first instance, the court should draw inspiration from the sentencing policy guidelines of 2023 which outlines the objectives and principles of sentencing. That the accused persons should benefit for the imposition of a lesser offence as stipulated in Article 50 (2) (p) of *the constitution*. It was also learned counsel's contention that contrary to the submissions by learned senior prosecution counsel M/s Kirenge there are contributory factors on the part of the deceased which triggered the unlawful conduct by the Accused persons. It was further learned counsel's submissions the objectives and principles on rehabilitation and transformation of the offender must count for something and not just deterrence or retribution. He also urged this court to consider the respective ages of the accused persons in which the 1st accused aged 60 years whereas the 2nd Accused is at now aged 38 years. That in addition the accused person has been in custody since their arraignment on 18.3.2021 and under Section 333(2) of the CPC the pretrial pre retention period should be factored in overall sentence to be imposed by this court.

29. On the other hand, learned prosecution counsel M/s Kirenge submitted on aggravating factors inviting the court to look at the circumstances of the offence and the severity of it to warrant a custodial sentence of 45 years imprisonment. The position taken by the prosecution counsel is in line with the principles in the comparative dicta Rep. V Jamu*son White, Criminal Case No 74 of 2008* the Malawen Court remarked that for the court to pass a server sentence like the death penalty the facts must be within this spectrum thus: " The offence must have been occasioned in every decrepit and gruesome circumstances, meticulously intentioned and planed and that the convict is highly likely to offend again to justify his total removal from associating with other persons even in prison. He must be a threat to Society so much so that society would without thinking twice approve of his elimination from planet earth. The motive for the killing must be extremely heimous so as to cause a deep sense of society abhorrence and condemnation that such human being does not qualify to live. I may put deliberate mass murder and serial killers in this category"

30. The court now faces the solemn task of determining an appropriate sentence that balances the imperatives of justice, punitive sanctions, and societal protection while acknowledging the human dignity of the offenders. The court has been informed that both accused persons are first offenders with no previous criminal record. Mr. Maathai, counsel for the accused persons, has mitigated on their behalf submitting that both accused persons are relatively young men, and that they both have young families who depend on them for sustenance and support.

31. In considering the appropriate sentence, I am guided by the Supreme Court decision in Francis Karioko Muruatetu and Another v Republic and Others [2017] eKLR, which established that despite section 204 of the *Penal Code* providing for a mandatory death sentence upon conviction for murder, the court retains discretion in sentencing. That discretion must however be exercised judiciously and not capriciously. In African Continents Bank v Nuamani [1991] NWLI 486, the Court stated that:

> " The exercise of court's discretion is said to be judicial if the judge invokes the power in his capacity as a judge qua law. An exercise of discretionary power will be said to be judicial, if the power is exercised in accordance with the enabling statutes, discretionary power is said to be judicious if it arises or conveys the intellectual wisdom or prudent intellectual capacity of the judge. The exercise must be based on a sound and sensible judgment with a view to doing justice to the parties."

32. In the Francis Muruatetu case, the Supreme Court guided as follows, both in the Original Petition and in the Directions given on 6/7/2021 while providing clarity on the judgment that had applied the principle that mandatory sentences were unconstitutional in as far as they deprived the trial courts of

the discretion to mete out appropriate sentences having regard to the circumstances of each case and also denied the accused persons the opportunity to mitigate.

> "vii. In re-hearing sentence for the charge of murder, both aggravating and mitigating factors such as the following, will guide the court;
>
> (a) Age of the offender;
>
> (b) Being a first offender;
>
> (c) Whether the offender pleaded guilty;
>
> (d) Character and record of the offender;
>
> (e) Commission of the offence in response to gender-based violence;
>
> (f) The manner in which the offence was committed on the victim;
>
> (g) The physical and psychological effect of the offence on the victim's family;
>
> (h) Remorsefulness of the offender;
>
> (i) The possibility of reform and social re-adaptation of the offender;
>
> (j) Any other factor that the Court considers relevant.
>
> ix. These guidelines will be followed by the High Court and the Court of Appeal in ongoing murder trials and appeals. They will also apply to sentences imposed under Section 204 of the *Penal Code* before the decision in Muruatetu."

33. In arriving at a just sentence, I am also reminded to consider the 2023 Judiciary of Kenya Sentencing Policy Guidelines which expressly provide that sentences are imposed to meet the following objectives:

a. Retribution: to punish the offender for his/her criminal conduct in a just manner.

b. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.

c. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.

d. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.

e. Community protection: to protect the community by incapacitating the offender.

f. Denunciation: to communicate the community's condemnation of the criminal conduct.

g. Reconciliation: To mend the relationship between the offender, the victim and the community.

h. Reintegration: To facilitate the re-entry of the offender into the society.

34. In the case of Santa Singh v State of Punjab [1978] 4 SCC 190, as cited in Titus Ngamau Musila alias Katitu-Criminal Case No 78 of 2014, the court held:

> " Proper sentence is the amalgam of many factors such as the nature of the offence, the circumstances--extenuating or aggravation of the offence. The prior criminal record', if any, of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, society and social adjustment, the emotional and mental condition of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to a normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence."

35. In considering the present case, this court must pay particular attention to the manner in which the offence was committed. The evidence showed that the accused persons acted with particular brutality, chasing the deceased while armed with stones, and targeting his head with those stones, knowing full well the potentially fatal consequences of their actions. This mob-like behavior demonstrates a callous disregard for human life.

36. The court notes that both accused persons are first-time offenders. However, their lack of genuine remorse throughout the trial process is a matter of concern. Neither accused person took responsibility for their actions, with each attempting to distance themselves from the crime despite the clear evidence placing them at the scene and identifying them as the perpetrators. It matters not that the accused persons did not have the victims to offer regret and apology over the murder of the deceased. A contrite spirit is a feeling of sorrow and remorse for one's actions and desire for forgiveness. During the sentencing hearing I neither conceived or appreciated that the accused persons regret or remorse is genuine and truthful. It therefore carries less weight in arriving at a just and proportionate sentence for the accused persons.

37. The court must balance society's interest in punishing heinous crimes with the individual circumstances of the offenders. While acknowledging that the accused persons are relatively young and have dependents, the court cannot overlook the brutal nature of their crime and its devastating impact on the deceased's family and the wider community.

38. Having carefully considered all relevant factors, this court determines that a substantial custodial sentence is warranted to reflect the gravity of the offence, provide appropriate retribution, deter others from engaging in similar conduct, and protect the community from the risk posed by the offenders. This death was avoidable.

39. From the facts of this case, the court entirely agrees with the prosecution counsel that the aggravating factors outweigh mitigation factors adduced by the defence. It is also true that from Muruatetu dicta the death penalty is still legal and lawful sentence for the offence of murder contrary to Section 203 of the CPC although it is reserved for the rarest of the circumstances under which the offence was committed. The accused persons indeed are first offenders who deserve a second chance in life. In this respect the 1st Accused is aged 60 years whilst the 2nd Accused is at his prime age of 38 years old. This court has noted the trends in sentencing in cases of murder where excessive force was used and the defence of self or provocation is precluded from the entire chain of events which culminated in the death of deceased. As a matter of emphasis, the right to life under Article 26 of *the constitution* is guaranteed and protected. It is the duty and obligation of every Kenyan citizen to preserve the right

to life of another citizen unless any unlawful Acts undertaken are excusable or justifiable within the statutory framework laid down by the legislature.

40. My function today is to reset what sentence is appropriate to the two accused persons in the circumstance of this case. In exercising discretion it can be asserted that cases can not withstanding variations having similarities which become apparent once particular factors are identified as being of importance in sentencing. These factors and the range of variability that they bring about can be ascertained in the previous decisions of this court and the criminal bench of the Court of Appeal. It is therefore my duty however to place the sentencing of this accused persons within the parameters of the existing law and practice so that this case can be regarded as being consistent with the sentencing policy of this country as interpreted and construed by the Superior Courts. It is also the jurisdiction of this court to decide on the extent to which any aggravating or mitigating factors identified by both counsels ought to increase or decrease the sentence to be imposed. This was a case of high culpability on the part of the accused persons in which aggravating factors outweigh mitigation offered during the sentencing hearing.

41. For those reasons subject to the caveat on pre-detention credit period prescribed under Section 333(2) of the *Criminal Procedure Code* each of the Accused person is sentenced to 25 years custodial sentence and as acknowledged in the aforementioned code, the respective commencement sentences shall incorporate the 18.3.2021 as the countdown in consonant with the law.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 5TH DAY OF MARCH 2025

In the presence of:

Mr. Maathai Advocate

M/s Kirenge for the State.

.....

R. NYAKUNDI

JUDGE