



**Republic v Makhoha (Criminal Case E043 of 2023)
[2025] KEHC 2263 (KLR) (Crim) (4 March 2025) (Sentence)**

Neutral citation: [2025] KEHC 2263 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL
CRIMINAL CASE E043 OF 2023**

K KIMONDO, J

MARCH 4, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

PETER KAKAI MAKHOHA ACCUSED

SENTENCE

1. The accused pleaded guilty to the lesser but cognate offence of manslaughter under a plea agreement recorded on 25th October 2024.
2. On 11th May 2023, Joseph Mdongo Murunga alias Jose (hereafter the deceased) was sitting on a bench outside his brother's house in Mlango Kubwa Area Nairobi. He was with another man, Edward Lusweti. When the accused found them, he pointed at the deceased using a screw driver and accused him of bringing men, such as Lusweti, to entice his wife. An ugly confrontation ensued between the two which ended in a full-blown fight.
3. Soon thereafter, the accused went to his house, grabbed a kitchen knife with a navy-blue handle and returned to where the deceased was. The deceased tried to hold him but the accused stabbed him once on the left side of his chest. The deceased fell down and the accused fled from the scene with the bloody weapon. The deceased died immediately from the mortal wound.
4. The autopsy report by Dr. Simon Omuok (exhibit 1) confirms that the cause of death was "excess haemorrhage from heart injury as a result of sharp force penetrating trauma" which is consistent with the facts read out at the trial and admitted by the accused.
5. Learned prosecution counsel, Ms. Kigira, urged the court to consider all the circumstances and gravity of the offence. There is then the mitigation tendered on behalf of the accused by his learned counsel,



Ms. Ng'ang'a. She also cited to two authorities filed in support of the prayer for a non-custodial sentence. Additionally, the accused filed an affidavit sworn on 19th January 2025 titled "affidavit in support of mitigation".

6. I have perused the pre-sentencing report dated 14th January 2025 under the hand of Albert Jaoko, Probation Officer. The accused is 29 years old and a scrap metal dealer. He is married with a young child aged 4 years. His affidavit is a plea for leniency. He says he is remorseful and has reformed in prison, undergone counselling lessons and participated in religious activities. Relevant certificates from prison and dated 22nd and 24th October 2024; and, 11th December 2024 are annexed marked PKM 1-3.
7. On the other hand, is the victim's family. The deceased was only 22 years and doing odd jobs in Mlango Kubwa. I have kept in mind that the accused and the deceased are cousins and their families seem to have reached some undisclosed agreement which perhaps underpins the plea bargain.
8. I have taken into account that the accused is a first offender. But his unrelenting anger led to loss of an innocent life over unverified claims that I highlighted earlier. It has now ended in needless agony for the family of the deceased.
9. Sentence should be commensurate to the moral blameworthiness of the offender but also guided by the nature and gravity of crime. Manslaughter is a grave felony and attracts a sentence of life imprisonment. The fact that the accused took time after the original fight to go back to his house to fetch a kitchen knife and strike at the heart of the deceased is a major aggravating factor. Justice of the case thus demands a custodial sentence. It will also afford the accused an opportunity to further introspect and get anger counselling.
10. I accordingly sentence the accused to serve ten (10) years in jail. The sentence shall run from 12th May 2023, the date when he was first arrested and placed in custody.
11. The accused has a right of appeal to the Court of Appeal within 14 days and as per the Rules of that Court but only on the sentence. A copy of the proceedings and sentence shall be supplied to him immediately.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 4TH DAY OF MARCH 2025.

KANYI KIMONDO

JUDGE

Sentence read virtually on Microsoft Teams in the presence of-

The accused.

Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Ms. Ng'ang'a for the accused.

Mr. E. Ombuna, Court Assistant.

