



**Republic v Adanje (Criminal Case E008 of 2025)
[2025] KEHC 4393 (KLR) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4393 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E008 OF 2025**

**AC BETT, J
APRIL 8, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

DANCAN ADANJE ACCUSED

RULING

1. The Accused Dancan Andaje was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code with the particulars being that on 16th day of June 2024 at Shibeye Sub-location in Kakamega County, he murdered Lillian Andayi.
2. The charge against the Accused was later reduced to manslaughter following a plea bargain agreement dated 10th February 2024. Upon the court being satisfied on the factual basis of the plea agreement and that the Accused was competent, of sound mind and acted voluntarily as in Section 137H and 137G of the Criminal Procedure Code, the court adopted the plea agreement and the new charge of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code was read over and explained to the Accused who unequivocally admitted both the charge and the facts.
3. The facts of the offence were set out in paragraph 4 of the Plea Agreement. The deceased is Lilian Andayi aged 13 years old. She was found deceased in a maize plantation on 28th June 2024 by which time the body was decomposed. Prior to that, the mother had called Tom Muluma to report that the deceased was missing. The mother was reported to the chief and a search ensued resulting the discovery of the body. The police were called and collected the body then commenced investigations. On 4th July 2024, the deceased was buried and after her burial, the Accused presented himself at Butere Police Station where he confessed that he was the one who had strangled the deceased. The report was booked and the Accused arrested and charged. A post-mortem was done on the body of the deceased where the Doctor concluded that the cause of death was asphyxia due to manual strangulation. The post mortem report was produced as an exhibit.



4. The court called for a pre-sentence report to assist it in the sentence.
5. At the sentence hearing, Mr. Mondia for the Accused submitted that the Accused is remorseful as clearly demonstrated by his actions.
6. Ms. Chala for the prosecution submitted that Accused was not a first offender as he had a previous conviction for which he spent two years in jail for stealing a motor cycle. Regardless of the conviction, she pointed out that the Accused had saved the court's time by entering into a plea agreement at the earliest opportunity thereby saving judicial time. She however stated that the Accused had taken away one's life and deserved punishment and that the parties had agreed to a fifteen (15) year sentence.
7. In the pre-sentence report dated 18th February 2025, it is stated that the Accused demonstrates a degree of remorse for his actions as evidenced by his voluntary surrender to the police. He is said to accept full responsibility for his actions although he said that he was not aware that the victim had died.
8. An interview with the victim's family established that her guardian, who is an Uncle was in profound pain and bitterness. According to the Uncle, the victim underwent severe physical and emotional trauma as she was brutally defiled then murdered and the thought of this experience has caused immense psychological and emotional distress to the family of the victim whose father is deceased. The severity of the offence has left a lasting impact on the deceased's family who are not ready to forgive and reconcile with the Accused. The pre-sentence report recommends a custodial sentence for the Accused since even the community is hostile towards him.
9. The Accused accosted a defenceless thirteen (13) years old girl and defiled then strangled her to death in a maize plantation. Thereafter, he appears to have suffered so much guilt that he voluntarily came back from Eldoret where he had fled and voluntarily surrendered himself.
10. From the outset the Accused pleaded guilty to killing the deceased. He however, claimed that the killing was not intentional.
11. In the case of *Charo Ngumbao Gugudu v. Republic* [2011] eKLR, the Court of Appeal held as follows:-

“Further, the law is that sentence imposed on an accused person must be commensurate to the moral blameworthiness of the offender and that it is thus not proper exercise for the court to fail to look at the facts and circumstances of the case in their entirety before settling for any given sentence. See *Ambani Vs R* [1990] eKLR.”
12. From the post mortem report, the deceased died from asphyxia secondary to manual strangulation. The deceased was killed while the Accused was in the course of defiling her, which is in itself an offence. The acts of the Accused are morally reprehensible and call for a custodial sentence as a deterrence and as a punishment.
13. I have considered the fact that there appears to have been no eye witness to the offence and the fact that the body of the deceased was discovered about four (4) days after she disappeared when it was decomposed. There is a strong possibility that had the Accused not confessed to the offence, no one would ever have known how the deceased met her death. I have also considered the fact that by voluntarily choosing to enter into a plea bargain agreement, he has saved the state some resources, and saved judicial time.
14. Considering all the aggravating and mitigating circumstances, I hereby sentence the Accused person to fifteen (15) years imprisonment to run from the date of his arrest which is 27th January 2025.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 8TH DAY OF APRIL 2025.



A. C. BETT

JUDGE

In the presence of:

Ms. Chala for the Prosecution

Mr. Mondia for the Accused

Court Assistant: Polycap

