



**Republic v Kimindu (Criminal Case 1 of 2017)
[2025] KEHC 4411 (KLR) (8 April 2025) (Sentence)**

Neutral citation: [2025] KEHC 4411 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE 1 OF 2017**

TW OUYA, J

APRIL 8, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

DOMINIC MUTUKU KIMINDU ACCUSED

SENTENCE

1. The convict was found and convicted of the offence of Manslaughter contrary to section as read with 202 as read with section 205 of the [Penal Code](#) after he pleaded guilty to two counts of the offence of Manslaughter having entered into a plea bargain agreement with the prosecution dated 17th October 2017.
2. The particulars of the offence of Count 1 were that on the 20th day of December 2016 at Kaguku Centre, within Gatanga sub-county, Murang'a County Unlawfully caused the death of Ann Ndume. The particulars of count II were that on the 20th day of December 2016 at Kaguku Centre, within Gatanga sub-county, Murang'a County Unlawfully caused the death of Martha Mukonyo Mutuku. The former was his estranged wife while the latter was his three-year old daughter.
3. In mitigation the convict stated that he is 60 years old and has been in remand for eight years and two months since 9th January 2017. That he has a family of five children ranging from 30 to 25 years of age. That he was previously a casual laborer due to which he developed back complications. He is remorseful and would like to go back to the society. He prayed to the court to give him a non-custodial sentence so that he can support his children who are also unemployed.
4. In compliance with the Bond and Bail Policy Guidelines and the Supreme Court Directions on the Muruatetu I, the Court called for pre-sentencing report, where it was stated that the offender had a troubled marriage with his wife, the first victim and had separated severally. At the time of the incident



- the first victim had separated from the offender and was cohabiting at the shopping Centre, within the community with another man.
5. The first victim was the offender's 4th Wife (the offender) having separated from others for what he termed as extra marital affairs. He had six children with the deceased, the last born of which is the second victim in this case.
 6. The report indicates that the lifestyle of the first victim was a source of pain and embarrassment to the offender. He felt provoked and his judgement was impaired considering that the first victim did not even hide her new boyfriend from the community which provoked him into committing the offence.
 7. The report states further that the Offender's attitude towards the offence is that of remorse and he pleads with the court for a non-custodial sentence. He regrets his actions and has realized that there were other ways of resolving the issues between him and the first victim. He seeks forgiveness of court, family and the society.
 8. The offender's family have forgiven him and they look forward to receiving him back in their midst. The offender owns up to the offence and is receptive towards a non-custodial sentence. It is noted however that he still requires guidance and counseling to help him accept and live with the consequences of his actions. A non- custodial sentence will make the above possible.
 9. The report concludes that the offender is suitable for a non-custodial sentence for a period of three years on an individualized treatment plan to address his current psycho-social challenges.
 10. The objectives of sentence are:
 - i. Retribution – to punish the offender in a just manner for his criminal conduct
 - ii. Deterrence – to deter the offender from committing a similar offence
 - iii. Rehabilitation – to enable the offender to reform
 - iv. Restorative –to address the needs arising from the criminal conduct such as loss and damages
 - v. Community protection – to protect the community by incapacitating the offender
 - vi. Denunciation – to communicate the community condemnation.
 11. In this matter the offender has owned up to the offence by pleading guilty albeit to a lesser charge of manslaughter on the basis upon which he was convicted.
 12. I have also taken into account the seriousness of the offence in that the offender caused the death of not one but two victims the second of which was an innocent 3-year-old child who was not party to the alleged disputes between the offender and the first victim. This court also notes that two of the convict's other children suffered severe burn wounds but luckily survived.
 13. Based on the social inquiry report on the offender, his remorseful attitude and the fact that his family has forgiven him, the most appropriate sentence for the convict is a probation sentence of three (3) years. This court takes into account that the offender has been in custody for 8 years and 2 months since 9th January 2017.
 14. The convict has a right of appeal on both conviction and sentence.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 8TH DAY OF APRIL, 2025

HON. T. W. Ouya



JUDGE

Accused.....Dominic Mutuku Kimindu

Prosecutor.....Mwangi

Court Assistant.....Jackline

