



**Republic v Ndungu (Criminal Case E028 of 2021)
[2025] KEHC 5707 (KLR) (7 May 2025) (Sentence)**

Neutral citation: [2025] KEHC 5707 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE E028 OF 2021
CW GITHUA, J
MAY 7, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MARGARET WANJIRU NDUNGU ACCUSED

SENTENCE

1. The accused, Margaret Wanjiru Ndun'gu was initially charged with the offence of murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#) but she was convicted on her own plea of guilty with the lesser charge of manslaughter under a plea bargain agreement dated 7th November 2024.
2. The particulars of the charge are that on 5th September 2021 at Ndururumo village in Kandara Sub-county within Murang'a County, the accused unlawfully caused the death of Ndungu Mugachia.
3. The facts of this case are quite sad. They demonstrate how the ugly head of Gender Based Violence (GBV) can lead to the ruin of families. The facts reveal that the accused and the victim were husband and wife. On the morning of 5th September 2021, the accused got into an argument with her daughter in law, one Betty and the deceased intervened. He reprimanded the accused and directed her to stop quarrelling their daughter in law.

Accused was unhappy with the deceased's intervention. She followed him into their kitchen and attacked him with a panga. Betty who was present raised an alarm. The accused's son (Kariuki) rushed to the scene and restrained his mother but when he left to look for transport to take the deceased to hospital, the accused resumed her attack on the deceased and slit his throat, killing him instantly.

4. Members of the public who had been attracted to the scene by Betty's alarm found the accused standing besides the deceased still holding a panga. She was disarmed and arrested. The matter was reported to Kandara Police Station. Police officers went to the scene, re-arrested the accused and recovered the murder weapon among other items which were produced in evidence as P Exhibit 1- P Exhibit 4.



5. An autopsy conducted on the deceased's body showed that the cause of death was haemorrhage and shock due to injury of the left carotid artery.

After investigations were completed, the accused was charged with the offence of murder which was later reduced to manslaughter.

6. In her plea in mitigation on behalf of the accused, learned Counsel Ms Wangui Wangai implored the court to consider passing a non-custodial sentence on grounds that the accused was 70 years old and was suffering from a myriad of chronic health conditions which included hypertension. She submitted that the accused was a victim of GBV as she had suffered abuse and violence in the hands of the deceased for a long time which allegedly led to the death of her three children; that she regretted her actions and sought court's leniency.

7. I have considered the accused's plea in mitigation and the circumstances in which the offence was committed. I have also considered the accused's age and the fact that she is a first offender.

I have also noted the findings in the pre-sentence report filed in court on 26th March 2025. The report confirms that the accused had been married to the deceased for over 40 years during which time the couple had constant disagreements which escalated to physical and psychological violence perpetrated by the deceased on the accused and her children; that the victims conduct on the material date triggered a flare up of anger and negative emotions which had built up in the accused from the pain and suffering she had endured in the hands of the victim for over 40 years which went out of control and led her to commit the offence.

8. The pre-sentence report also captured the views of the victim's family comprising of the deceased's surviving adult children which views this court was enjoined to consider as decreed in the Victims Protection Act of 2014 when determining the appropriate sentence to pass against the accused. The deceased's family upon being interviewed by the probation officer supported a non-custodial sentence for their mother stating that they had forgiven her and were ready to accept her back home to enable them rebuild their family which was on the verge of disintegration. The members of the public in the community in which the deceased and the accused hailed from were also sympathetic to the accused and were not opposed to a non-custodial sentence.

9. That said, it is important to state at this juncture that even if there is some agreement among the people who knew the deceased that he was a trouble maker, an abusive husband and father, just like all other citizens, the deceased had a right to life and did not deserve to die in such a brutal manner. Granted, the accused took the law into her own hands and cannot be excused for her unlawful action but the circumstances in which she committed the offence are of paramount importance in considering her moral blameworthiness and the sentence appropriate in her case.

10. Having taken all relevant factors into account including the fact that the accused has already spent a period of over 3 years in lawful custody, despite the gravity of the offence, I have arrived at the conclusion that a custodial sentence is not appropriate in this case as it was unlikely to serve any of the objectives of sentencing. I am satisfied that a non-custodial sentence is more suitable as it would facilitate the rehabilitation and re-integration of the accused into her family and community at large.

11. For all the foregoing reasons, I hereby exercise my discretion a sentence the accused to serve three years on probation under the supervision of Murang'a County Probation office.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANGA THIS 7TH DAY OF MAY 2025.



HON. C. W. GITHUA

JUDGE

In the Presence of :

The Accused

Mr. Ndonga Holding Brief for Ms. Wangui Wangai for the Accused

Ms. Muriu for the State

Ms. Susan Waiganjo, Court Assistant

