



**Republic v Chebii (Criminal Case E009 of 2024)
[2025] KEHC 8761 (KLR) (19 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 8761 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE E009 OF 2024**

**RB NGETICH, J
JUNE 19, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ALFRED KIPKURGAT CHEBII ACCUSED

SENTENCE

1. The accused person had been charged with the offence of murder contrary to section 203 as read with Section 204 of the *Penal Code*. The particulars of the charge were that the accused person on the 21st day of September,2024 at about 2300hrs at Kabusua Location in Mogotio Sub- County, murdered Joel Chepyator Chebii.
2. The charge was read over to the accused person who denied the charge and the trial process commenced. When the matter came up for plea on the 20th November,2024, the defence counsel Mr. Mwaita informed the court that he had spoken to the accused that morning and he was of the view that they pursue plea bargain. Counsel informed the court that he had also spoken to the prosecution counsel who promised to look at the statements. Counsel undertook to make a formal request. Counsel also prayed that the accused be released on bond. The prosecution on their part confirmed that Mr. Mwaita had informed them of the proposal for plea bargain and that they would consult and inform the court on how they intend to proceed.
3. On the 19th May,2025, plea agreement was duly executed and the charge was reduced to manslaughter and the charge and its particulars were read over and explained to the accused person who pleaded guilty to the offence of manslaughter contrary to section 202 as read with section 205 of the *Penal Code* and he was found guilty and convicted accordingly.



Brief Facts of the Case

4. Facts surrounding this case are that on the night of 21st September 2024 at around 2300hrs at Kirbot sub location, Kabusua Location Mogotio Sub County, Millicent Jeptoo Kipkurgat was in the house with other kids when the deceased Joel Chepyator Chebii who was an uncle to Milicent arrived home while drunk and inquired from outside whether Milicent's father who is the accused in this case Alfred Kipkurgat Chebii was around.
5. Millicent informed the deceased that the accused who was the deceased's elder brother was in his house and probably he was asleep. The deceased then proceeded to the house where the accused was said to be sleeping which was about 20metres away from where the deceased met Millicent and kicked the door open.
6. He then entered the house and met the wife of the accused Linah Terik Kandie who was seated on a sofa holding her child and the accused who was relaxing on the bed. The deceased who had removed his shirt went for the accused while appearing very annoyed and tried to attack him. The accused took a panga that was near the bed and a struggle ensued and in the process, the accused cut the deceased on the right side of the neck once with the panga and he started bleeding profusely.
7. Linah the wife to the accused had by then stepped out and was screaming for help. The screams attracted many people among them was Emmanuel Kimalach Chebii a brother to the accused and the deceased and his wife who found the accused coming out of his house with blood on his clothes still holding the panga which was blood stained. The deceased was found lying down in the accused's house unresponsive.
8. On 22nd September, 2024 around 0600hrs, the accused presented himself at Olkokwe police post and informed the officers at the post that he had killed his brother and was placed in the cells and was later transferred to Mogotio police station. Officers from Mogotio police station visited the scene on 22nd September 2024 at around 1100 hours, recovered the murder weapon, processed the scene and moved the body of the deceased to Nakuru Provincial General Hospital mortuary.
9. Postmortem was conducted on the body of the deceased by Dr. Titus Ngulungu in the presence of deceased's relatives and a police officer and the doctor established that the deceased died of massive blood loss following severed neck vessel due to sharp force trauma to the neck. Police file was compiled and the accused charged with the offence of murder now reduced to manslaughter upon request for plea bargain.
10. The prosecution informed court that accused is a first offender and the court directed that a pre-sentence report to be filed before mitigation.

Pre-sentence Report

11. From the report, the accused is 45 years old. The deceased's family who are also the family of accused have agreed to forgive their son (the accused) stating that they cannot afford to lose both the deceased and the accused. They prayed for non-custodial sentence.
12. The local administrators confirmed reconciliation and stated that they were involved in plea-bargaining agreement. They prayed for a non-custodial sentence. The probation officer is of the opinion that home environment is conducive for re-integration of the accused person.



Mitigation

13. The defence counsel Ms. Barasa mitigated on behalf of the accused. She submitted the accused had no malice and he had no intention to kill the deceased. That the incident arose due confrontation. That the accused acted in self-defence in a desperate attempt to save his life. Counsel submitted that the deceased was the aggressor in this incident and the accused is genuinely remorseful and has saved court's time and resources by pleading guilty and are praying for leniency for the accused. That besides being remorseful, the accused also lost his brother and he continues to suffer immense guilt from killing his brother.
14. Counsel submitted that the accused is a first offender and a peaceful person in the community. That the incident is a unique incident that was born out of fear and attempt to survive to fight for his life too. She stated that the accused is a bread winner with 10 children and he prays for a non-custodial sentence given that the families have reconciled so that he can go home and take care of his young family. That the accused acted in self-defence following provocation.
15. The prosecution counsel Ms. Omari submitted that she had looked at the pre-sentence report which is favourable to the accused. She submitted that reconciliation meetings were held and the victim's family have been compensated and the minutes of the meetings have been filed in court. That from the facts taken herein, the deceased was the aggressor and the accused was gravely provoked. She stated that the deceased was the accused's brother and so she leaves the aspect of sentencing to the discretion of the court.

Determination

16. Under section 205 of the *Penal Code*, a person convicted of Manslaughter is liable to imprisonment for life which can be reduced depending on the circumstances of the case. From the facts and presentence report, the deceased who was the accused's brother went to the house of the accused in the evening and extremely provoked him and the accused out of self-defence took a panga and hit him on the neck killing him instantly. The prosecution counsel informed court that the accused is a first offender. The accused is remorseful for killing his brother. The family have reconciled as confirmed by the local administration who were involved in reconciliatory process. I also take note of the fact that the accused has saved the court's time by pleading guilty to a lesser charge and he is remorseful. There is no doubt that the deceased was provoked and acted in self defence; however, I am of the view that he used excessive force and he should have exercised restraint. However much the family of the accused who are also family of the deceased pray for noncustodial sentence, I am of the view that the accused deserve custodial sentence. I will however imposed lenient custodial sentence. I am of the view that while in custody, the accused will get time to reflect on his unfortunate act of killing his brother, learn anger management skills and make use of opportunities available in prison to reform to a better person who will influence the society positively once released. This will also act to deter other would be offenders. I therefore proceed to sentence accused to 5 years imprisonment.
17. Final orders: -
 - a. Accused to served 5 years imprisonment.
 - b. Period served in remand to be considered in computation of sentence.
 - c. Right of appeal 14 days.

RULING DELIVERED, DATED AND SIGNED IN VIRTUALLY AT KABARNET THIS 19TH DAY OF JUNE, 2025.



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RACHEL NGETICH

JUDGE

In the presence of:

Ms. Omari for State.

Ms. Barasa for accused.

Accused present.

CA, Elvis/Momanyi.

