



**Republic v Mary Chepkosgey Limo (Criminal Case 14 of 2023)
[2025] KEHC 8788 (KLR) (19 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 8788 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE 14 OF 2023
RB NGETICH, J
JUNE 19, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

MARY CHEPKOSGEY LIMO ACCUSED

SENTENCE

1. The accused MARY CHEPKOSGEI LIMO was 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 on the 18th day of May, 2016 at [Particulars withheld] village in Koibatek Sub - County, within Baringo County murdered Samson Kipserem Keston.
2. By judgement delivered on the 15th day of May,2025 this Honourable court found the accused person guilty and convicted her of the offence of manslaughter contrary to section 202 as read with 205 of the penal code. The particulars of the charge were that the accused on the 18th day of May,2016 at [Particulars withheld] village in Koibatek Sub- County within Baringo county killed Samson Kipserem Keston.
3. Upon the conviction, the prosecution informed the court that the accused was as first offender. The court directed that a pre-sentence report to be filed before mitigation.

Pre-sentencing Report

4. From the report, the accused is the only surviving child in her family. Her mother is alive and aged. She is illiterate, she got married to the deceased in the year 1977 and were blessed with seven children. She has no history of breaking the law, she was raised in a staunch Christian family until when she got married to the deceased who introduced her to alcohol. They were in-and out of the courts due to land issues as it is alleged that the deceased had a habit of selling portions of their family land without her



consent which always led to family feud. Other family issues were being settled locally at the chief's office.

5. After the incident, she escaped to her maternal home due to fear of being lynched by the community. The family members are not happy at the happening as they say it has brought shame and pain to the family. They however feel she might have been provoked by the deceased to commit the offence due to alcoholism and accused's habit of going home late and beating her when under the influence. They are of the view that the accused should be given a chance on non-custodial sentence. They are willing to accept her back and assist her settle back in the community. The National administrators and the community members were all in agreement that the accused is not a security risk both to herself and other members of the community. None of the community members are against her being released on non-custodial sentence.
6. From the report the accused's marriage to deceased was marred with frustrations and torture as the deceased had the habit of abusing her and she frequented paternal home. Circumstances surrounding the offence are that on the material day, the deceased went back home very drunk and started insulting the accused calling her names which angered her leading to intense quarrel which resulted in a fight and the accused on seeing that she was on the ground and helpless, she pushed the deceased and unfortunately, he fell on some logs that were outside the house. She screamed and people went to her rescue and were later shocked to learn that the deceased never woke up. She is still heartbroken at the happening as she says it was not her intention to commit the offence. She says despite physical and verbal abuses she received from the deceased, she was still submissive to him as her husband. She deeply regrets the offence and pleads for leniency.
7. The deceased was the only surviving son of the family and relatives said they had left the matter to God and are indifferent towards the outcome of the whole issue whether custodial or non-custodial. They have left the matter to the court's discretion.

Mitigation

8. On the 11th June, 2025, the defence counsel Mr. Chepkilot mitigated on her behalf of the accused. He submitted that the accused is 70 years old who was convicted of the offence of manslaughter and she does not have previous convictions. He submitted that the offence occurred in the presence of difficult issues of marriage where the husband was selling family land and she endured serious physical abuse. That she was intoxicated and it happened when the deceased arrived and physically assaulted the accused and in the altercation, the accused pushed the deceased and he fell on logs in the kitchen.
9. The defence counsel submitted that in as much as the accused endured extreme physical abuse in marriage, she is remorseful and she did not intend to kill the deceased who was her husband. That the accused is illiterate and she had endured physical abuse for many years.
10. The accused family and the local administration have indicated that the accused does not pose any risk if placed on a non-custodial sentence. That she was taking care of physically challenged child and they reiterate that the accused is remorseful and had no prior criminal records. They prayed for a non-custodial sentence so that she can spend her bonus years out of custody.
11. The prosecution counsel submitted that the accused is a first offender and that the pre-sentence report is favorable to the accused. She submitted that she has taken note of accused's age and from the report, she was a victim of gender-based violence from the deceased her husband and urged this court to take note of the same in passing the sentence.



Determination

12. Under section 205 of the *Penal Code*, a person convicted of Manslaughter is liable to imprisonment for life, however this can be reduced depending on the circumstances of each case. I have considered the circumstances under which the offence was committed, the fact that the offence was not planned and the accused is a first offender and she is remorseful. I also take note of the fact that accused is aged 70 years old and the fact that she endured a long period of physical and verbal abuse from her husband the deceased herei. From the report, the accused was a victim of gender-based violence for long. I have considered the fact that the accused had been subjected to gender-based violence and on the material day she may have used excess force while defending herself but had no intention of killing her husband. Upon considering circumstances surrounding the offence and sentiments by the family and by local administration and the fact that accused is now aged 70 years, I am inclined to impose non-custodial sentence.

Final Orders: -

- a. Accused to serve 3 years' probation sentence.
- b. 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.

Mr. Chepkilot & Ego holding brief for Lagat for accused.

Accused present.

CA, Elvis/Momanyi.

