



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Wandabi (Criminal Case E035 of 2022)  
[2025] KEHC 8455 (KLR) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8455 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL CASE E035 OF 2022**

**AC BETT, J  
JUNE 16, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**AMBROSE NYONGESA WANDABI ..... ACCUSED**

**RULING**

1. The Accused pleaded guilty to the lesser charge of manslaughter contrary to Section 202 of the [Penal Code](#) after entering into a plea agreement with the State.
2. The factual basis of the charge were that on 31.1.2022, the Accused picked a quarrel with the deceased, Daisy Chepkirui who was his wife after he arrived home while drunk. A fight ensued and in the process the Accused grabbed the deceased by the neck using both hands and strangled her to death. The quarrel arose when the deceased accused her husband of having love affairs with other women. The Accused strangled the deceased when they were already in bed. Later in the morning, when the Accused realized that his wife had died, he covered her with a blanket, returned the motorcycle that was in his custody to the owner then went back home after which he went to Matunda Police Station where he surrendered himself and was arrested.
3. The cause of death was confirmed through an autopsy that was done by Dr. Dennis Munyinga on 8.8.2022 who formed the opinion that the cause of death was asphyxia secondary to strangulation.
4. The Accused made a confession on 3.8.2022 which was produced as P. EX 1.
5. After compliance with Section 137F and 137G and after accepting the plea agreement in line with Section 137 of the [Criminal Procedure Code](#), the Accused pleaded guilty after which the court called for a pre-sentence report.



6. In mitigation Mr. K'Ombwayo for the Accused pleaded that he was remorseful and that he had shown willingness to meet with the family of the deceased for purposes of reconciliation. He submitted that the Accused is a young man who could reform and become useful to the society if given a chance. Further, he submitted that the Accused had learnt a lesson from the incident and learnt to govern his temper.
7. In response, the prosecution submitted that the Accused was a first offender and had saved the court's time by entering a plea agreement. However, Ms. Chala for the prosecution differed with the pre-sentence report that recommended a three-year probation on account of the fact that there is an uproar on cases of femicide and for purposes of deterrence, it is prudent that a custodial sentence is meted.
8. From the pre-sentence report, the victim's biological family remains deeply affected and in emotional distress following the loss of their daughter. The victim's mother is amenable to reconciliation in line with Nandi cultural traditions but the father insists on justice and maintains that any reconciliation efforts must take into account the well being of the deceased's son who was four (4) years old at the time of the offence.
9. It is stated that the community strongly advocates for reconciliation while recognizing the gravity of the situation but attributing the offence to alcoholism and possible substance abuse. The Accused was said to be impulsive, prone to negative associations and engaged in substance abuse which has impacted on his ability to manage his anger and to develop problem-solving skills. It is proposed that a three-year probation sentence would facilitate reconciliation.
10. I have painstakingly considered the Accused's mitigation, the prosecution's response and the pre-sentence report.
11. It is trite knowledge that femicide has become endemic in our society. The actions of the Accused led to the tragic loss of a very young mother whose death has stolen a mother's love from her 4 year old innocent child. The loss cannot be treated casually as it was the result of an unlawful act by the very person who was supposed to love and protect the deceased.
12. I have also taken note of the fact that the Accused is a young man, a first offender and has demonstrated remorse. It is evident from the facts that the Accused was not sober at the time he committed the offence otherwise he would not have gone to sleep with his wife's body after strangling her to death. I also note that the Accused did not use any weapon in killing his wife nor did he assault her beyond the strangulation. Nonetheless, the Accused committed a grievous offence notwithstanding the fact that he was ready to take responsibility for his actions.
13. Although the pre-sentence report recommended that the Accused be sentenced to probation, I am cognizant of the fact that a pre-sentence report is but a guideline to the court which retains the sole discretion in the sentencing process.
14. The offence of manslaughter is punishable by a maximum sentence of life imprisonment for the most grievous of the cases.
15. The Judiciary Sentencing Policy Guidelines 2023 sets out the features relevant to assessing culpability as follows;

“Manslaughter

5. Where an unlawful killing is done without an intention to kill (or cause grievous bodily harm?), the offence of manslaughter may be made out. In sentencing such cases, as with murder, the focus must lie primarily upon



culpability. With manslaughter cases, the degree of culpability may vary widely, from the 'one punch' manslaughter to the case involving a prolonged campaign of domestic violence which ultimately results in the victim's death. The focus must be on the offender's actions and intentions at the time of the crime in assessing the degree of culpability. Sometimes a nuanced approach is called for.

5. In addition to the generic features contained in the GATS, some features that  
2.7 are relevant to assessing culpability in manslaughter cases include, but are not limited to the following:

- i. Where death was caused in the course of an unlawful act which involved an intention by the offender to cause harm falling short of grievous bodily harm e.g., one punch that caused the victim to fall and suffer a catastrophic and fatal brain injury.
- ii. Where death was caused in the course of an unlawful act that carried a high risk of death or grievous bodily harm which was or ought to have been obvious to the offender e.g., driving a motor vehicle dangerously through a crowded street.
- iii. Where death was caused in the course of committing or escaping from a serious offence.
- iv. Where the offender tried to conceal the offence by concealing, dismembering, or destroying the body.
- v. Where death was caused in the course of self-defence or defence of another (though not amounting to a defence).
- vi. Where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm e.g., the offender pushed the victim out of the way and the victim fell and suffered a fatal injury.
- vii. Where the offender's responsibility was substantially reduced by mental disorder, learning disability or lack of maturity. Examples might include the woman who suffers severe post-natal depression, or the war veteran who suffers posttraumatic stress disorder to the extent that he behaves in a way that is erratic and violent in the face of ordinary day-to-day stressors.
- viii. Where there has been a history of violence towards the victim by the offender, this might be relevant to sentencing.
- ix. Significant mental or physical suffering caused to the deceased.
- x. Where the offence involved use of a weapon.
- xi. Offence committed in the presence of children (particularly relevant to domestic violence deaths)."

16. Having taken into account the sentencing objectives as set out in the Sentencing Policy Guidelines, the mitigating and aggravating factors and the circumstances of the offence, I am of the view that only a custodial sentence would best serve the said objectives. I am of the view that the Nandi traditional



culture of reconciliation does not in any way diminish the need for a retributive sentence. The Accused must take responsibility for failing to govern his temper as a lesson to himself and to the rest of the members of the society who may be tempted to resort to violence as a dispute resolution mechanism.

17. In the case of Republic v Minde Moses Etiang [2024] KEHC 4827 KLR RN Nyakundi J, sentenced a man convicted of manslaughter to seven (7) years imprisonment despite the fact that the pre-sentence report had recommended a three-year probation and the prosecution had proposed a sentence of not more than fifteen (15) years and not less than 10 years.
18. Having considered all the relevant factors as well as the fact that both parties had recommended a sentence of nine (9) years, I hereby sentence the Accused to a sentence of nine (9) years. The sentence shall run from 22.8.2022 when the Accused was first placed in custody. The Accused has 14 days' right of Appeal.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 16<sup>TH</sup> DAY OF JUNE 2025.**

**A. C. BETT**

**JUDGE**

In the presence of:

Ms. Chala for the Prosecution

Ms. Ayatta for the Accused

Court Assistant: Polycap

