



REPUBLIC OF KENYA



**Republic v Mwikya (Criminal Case E020 of 2021)  
[2025] KEHC 8446 (KLR) (12 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 8446 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
CRIMINAL CASE E020 OF 2021**

**RC RUTTO, J**

**JUNE 12, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**MARY NDUKU MWIKYA ..... ACCUSED**

**SENTENCE**

1. The accused herein was initially charged with the offence of murder and took plea and pleaded not guilty. Following a sequence of meetings between the accused prosecution and victims' family, on 28<sup>th</sup> April 2025 the accused agreed to plea bargain to a lesser charge of manslaughter. A plea bargain agreement was prepared and she pleaded guilty to the charge of manslaughter. Consequently, the matter that remained that is subject of this ruling is sentencing, which is at the discretion of the court.
2. Notably a person who agrees to plea bargain and pleads guilty saves precious and scarce judicial time that would have been used to conduct a trial and also guarantees the prosecution a conviction. Consequently, the court cannot shut its eye on this fact when considering sentencing.
3. In considering sentence I make reference to the Judiciary Sentencing Guideline Policy, as well as the Supreme Court decision in the case of *Francis Karioko Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae)* [2021] eKLR where the apex Court set out factors for consideration in sentencing and which include age of the offender, whether she is a first offender, plea of guilty, character and record of the offender, commission of the offence, remorsefulness of offender and the possibility of reform and social re-adoption of the offender.
4. In this instance a young and innocent life was lost. The circumstances surrounding the commission of the offence are aggravating. The accused took poison, added it to a ready to drink juice and instructed the deceased, her biological child of tender years to drink/ingest the poisoned drink. There is no iota of



evidence that the deceased child had erred towards the accused in anyway. She was a collateral damage to a rift that she had no role in.

5. I have considered the mitigation of the accused person that she is remorseful, a first offender, plea of guilty, change of character and possibility of reform and social re-adoption of the offender. She also stated that she is a mother of three surviving young children and that she is 32 years of age. She pleads for leniency and a non-custodial sentence. She wishes to be granted with a non-custodial sentence to accord a 2<sup>nd</sup> chance to reunite with her children. I have perused the probation report and taken its observation into account.
6. However, it is important to acknowledge the gravity and severity of the circumstances surrounding the case. In addition, it cannot be over emphasized that the life of an innocent child was lost, a life that ought not to have been lost, was lost. The tragedy is further compounded by the fact that the child was lost as a result of the actions by their own mother someone expected to be a care giver a source of love and a protector of the child and hence the need for the accused to undergo rehabilitative programs.
7. I also note that the statutory sentence for man slaughter is life imprisonment. Consequently, I find that a non-custodial sentence is not suitable in these circumstance. I therefore sentence the accused to eight (8) years imprisonment as follows five years custodial sentence and 3 years none under the supervision of the probation officer. The sentence will start running from the date of this sentence.

Orders accordingly.

**DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 12<sup>TH</sup> DAY OF JUNE, 2025.**

**RHODA RUTTO**

**JUDGE**

In the presence of;

.....Accused

.....ODPP

Sam Court Assistant

