



**Republic v Kibiro & another (Criminal Case 54 of 2023)  
[2025] KEHC 7847 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7847 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDAMA RAVINE  
CRIMINAL CASE 54 OF 2023  
RB NGETICH, J  
JUNE 5, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SAMWEL CHEPYATOR KIBIRO ..... 1<sup>ST</sup> ACCUSED**

**IAN KENDAGOR CHELELGO ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. The accused persons herein Samwel Chepyator Kibiro And Ian Kendagor Chelelgo had been jointly 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 persons on the 3<sup>rd</sup> day of November, 2022 along Eldama Ravine- Nakuru road in Koibatek Sub- County within Baringo County jointly with another not before court murdered Peter Kipkemoi Kibet.
2. The accused persons denied the charge and when the matter came up for hearing on the 13<sup>th</sup> July, 2023, the defence counsel Mr. Chepkilot informed the court that he had instructions from the accused persons to pursue plea bargain and he was to make formal request to the prosecution. Following this development, the court directed that the matter be mentioned on the 21<sup>st</sup> September, 2023 to confirm the position on plea bargain.
3. On the 19<sup>th</sup> May, 2024, the plea agreement was duly executed and the charge was eventually reduced to manslaughter contrary to under section 202 as read with section 205 of the [Penal Code](#) and its particulars were read over and explained to the accused persons who pleaded guilty and were convicted on their own plea of guilty.



## **Brief Facts Of The Case**

4. Facts surrounding the offence were that on the 3<sup>rd</sup> of November 2022, the deceased Peter Kipkemoi Kibet went to his place of work at society trading Centre as usual and upon closing his shop around 10pm, he and left for his home accompanied by one Reinhard Kiplagat Komen. As the two were walking home, they were accosted by robbers. Reinhard Kiplangat Komen was hit on the head with a piece of timber and he fell to the ground and blood started oozing from the head after which he lost consciousness. He sustained injuries on the head and both hands. He reported the matter to the area chief the following day upon regaining consciousness. The chief advised him to report at Eldama Ravine police station where he filed a report. Reinhard later learnt that the deceased was also attacked and his body dumped at FTC dam while at Eldama Ravine Police Station.
5. The deceased's body was discovered dumped at FTC dam on the 4<sup>th</sup> of November, 2022 at about 0800hrs by members of the public who reported to the police. Police officers from Eldama Ravine police station visited the scene, whereby Jeremiah Kiprop Binin the father to the deceased identified the body as of his son the deceased Peter Kipkemoi Kibet. The body had visible injuries on the forehead. The body was moved to Eldama Ravine Sub County hospital mortuary for preservation awaiting postmortem.
6. On 7<sup>th</sup> November, 2022 three suspects namely Musa Kiplagat alias Asigo, Samuel Kipyator Ribiro and Ian Kendagor Chelelgo were arrested in relation to the incident. They were interrogated and two of them Samuel Kipyator Ribiro and Ian Kendagor Chelelgo confessed to have committed the offence jointly with one Sammy Kibon who is still at large. Confession statements were recorded from the two.
7. Postmortem was conducted on the body of the deceased on 11<sup>th</sup> November, 2022 at around 10.00am at Eldama Ravine Sub County Hospital by Doctor Titus Ngulungu after the body being identified to him by two family members. The doctor formed the opinion that the cause of death was as a result of asphyxia due to neck compression trauma in keeping with manual strangulation (Homicide). The police file was compiled and accused persons charged with the offence of Murder now reduced to Manslaughter upon request for Plea bargain.

## **Pre-sentence Reports**

### **1<sup>st</sup> Accused's pre-sentence report**

8. From the report, the accused is 20 years old. He completed class 8 in the year 2020 having scored 301 marks in KCPE examination. He joined secondary school and was arrested when he was in form 2 at the same secondary school. His father is a retired KDF officer while the mother is a casual worker. The following year, while at the Nakuru Children Remand Home, he sat for KCSE exam and he managed to score grade D- (minus).
9. The accused person regrets the circumstances that led to the death of the victim herein and pleads with the court for leniency during sentencing. His father indicated that the family was deeply affected by the negative incident and has also affected his relationship with neighbors with whom they had co-existed harmoniously in the past.
10. The victim was single man aged 36 years and was living with his parents while doing the business of selling cereals and the business premises where he had rented belonged to the family of the accused. Through his business, he was able to support his family financially.



11. The victim's relatives- expressed pain at the loss of their son but stated that they had resolved to forgive the accused and had engaged the relatives of the accused in traditional reconciliation talks and practices which would eventually foster harmonious relations.
12. The local administration indicated that they were involved in the reconciliation talks by the family of the victim and the accused and were in support of the reconciliation process which was done and documented in minutes and the two families had continued to live peacefully since then.
13. The accused expressed remorse for his action which led to the death of the victim and said the incident has continued to affect him psychologically as well as social as he has a challenge relating with his peers and neighbours as a result of the stigma attached to the act.
14. The father indicated that that whereas reconciliation is underway, he has undertaken to relocate the accused to Nyamamithi village in Subukia where he has land if the court would consider to grant him a non-custodial sentence.

## **2<sup>nd</sup> Accused's pre-sentence report**

15. From the report, the accused was born in 2006. He sat for his Kenya Certificate of Primary Education examinations in the year 2020 and obtained 231/500. He was admitted to Kabiyet secondary school and at the time of his arrest, he was a form two student. For the past two years, he has been at Nakuru Children's remand home. While at the remand, he was given an opportunity to sit for his Kenya Certificate of Secondary Education examinations where he acquired a mean grade of D-. He aspires to pursue a course in plumbing for his future employability.
16. Though he was a form two student by the time of his arrest, he admitted that he used to abuse alcohol, bhang and khat. While in remand, he decided to change and became a Christian. He has certificates in Bible studies and baptism. He attributes the offence to association with bad company. He said he was in a company of other two persons, the co-accused person and another by the name Sammy Chebon at the time of the incident. He revealed that the deceased victim was a stranger to him but was a well-known person by his co-accused and the other person who disappeared to avoid arrest after committing murder.
17. He said that in the company of three, they were from alcohol drinking spree for long hours of night. Then they decided to go home by means of a motorcycle. they had a motorcycle and Sammy Chebon (who is at large) was the rider. On their way home, they met the victim with another person and immediately Sammy Chebon alighted from the motorcycle then Sammy and the victim argued harshly over maize business then a conflict ensued and Sammy hit the victim on his head with a rod and he fell down. The other person accompanying the victim vanished. He said when the victim fell down, they looked at him and realized that he had died. It was at that time that Sammy Chebon, who was older than them coerced them to move the body with aim of concealing the offence.
18. Accused 2 pleads for leniency from the court and promises to change to a law-abiding person and avoid reoffending. He regrets the illegal action and stated that he will be keen in choosing friends to protect himself from negative influence.
19. The victim's family revealed that the accused's family supported in the burial process of the victim. The accused's father is known to victim's family while the accused is a stranger to victim's family. The two families have had reconciliatory talks and compensation as per Tugen culture.
20. The victim's family confirm that they have received compensation and are not opposed to accused being considered for leniency. The accused's family are willing to assist in the rehabilitation of the



accused if released on non-custodial sentence and undertake to relocate to another land to prevent unforeseen retaliation and are willing to empower the accused with vocational skills of his choice.

21. The local administrators confirmed that the accused and victim's families have reconciled and compensation done and they live in harmony and are of the opinion that the accused who is still youthful be given a chance to rehabilitate in an open community setting and both the chief and assistant chief promised to assist in his supervision.
22. The probation officer confirmed that at the time of compiling report, both families were living in harmony and were in agreement that the accused may be considered for a lenient sentence and recommend probation sentence for 3 years so that the accused persons may receive guidance and counselling services available at their disposal and attain vocational skills for future employability and counselling against alcohol abuse and other addictive substances.

### **Mitigation**

23. The defence counsel Mr. Chepkilot mitigated on their behalf. He submitted that the 1<sup>st</sup> accused was 18 years old at the time of the arrest and he is now aged 21 years whereas the 2<sup>nd</sup> accused was 16 years and he is now 19 years old. He submitted that they are both young and of productive age and they have spent about 3 years in custody pending the hearing of this matter. That they have no previous convictions and are remorseful.
24. Counsel further submitted that while in remand, the accused persons have been able to appreciate the gravity of the offence, that the murder was not premeditated and from the report they were intoxicated. He submitted that they have been able to reflect on their actions while in remand and that they have reformed and are ready to re-intergrate back to the community. That they come from a humble background and their parents have been devastated by their actions. He submitted that there has been reconciliation and the community are ready to accept them back. He prayed that the period of about 3 years that the accused have been in custody be considered during the sentencing of the accused persons. He stated that the accused persons are young and they pray that they be granted a second chance in life.
25. The prosecution counsel Ms. Omari submitted that pre-sentence report is favourable to the accused persons. She submitted that the families have reconciled and that the 1<sup>st</sup> accused was 17 years and 11 months while the 2<sup>nd</sup> accused was 16 years old at the time of arrest and were therefore minors. She left it to court to the exercise discretion during sentencing.

### **Determination**

26. 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 social inquiry report, the suspect who is still at large played a bigger role in causing the death of the deceased by hitting his head with metal rod and the accused persons herein who were minors at the time of the offence aided in concealing the death by moving the body from the scene.
27. I take note of the fact that accused persons are first offenders and that they saved the court's time by pleading guilty to a lesser charge of manslaughter. Each expressed remorse and I take note of the fact that they were minors at the time of the offence, the 1<sup>st</sup> accused being 17 years whereas the 2<sup>nd</sup> accused was 16 years old. I have also considered the fact that the families have reconciled and victim's family have been compensated by the family of the accused persons and are relating well.
28. The Local Administration and the families of the accused, and victim are not opposed to non-custodial sentence. In view of the above, I am inclined to impose non-custodial sentence.



29. Final Orders: -

1. Each accused to serve 3 years' probation sentence.
2. Right of appeal 14 days.

**RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 5<sup>TH</sup> DAY OF JUNE 2025.**

.....

**RACHEL NGETICH**

**JUDGE**

In the presence of:

Ms. Omari for State.

Mr. Chepkilot for accused persons present.

Accused 1 present.

Accused 2 present.

CA, Elvis.

