



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Macharia (Criminal Case E016 of 2018)  
[2025] KEHC 7524 (KLR) (4 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 7524 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NANYUKI  
CRIMINAL CASE E016 OF 2018**

**AK NDUNG’U, J**

**JUNE 4, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JANE WANJIRU MACHARIA ..... ACCUSED**

**SENTENCE**

1. Jane Wanjiru Macharia is charged with murder contrary to Sections 203 and 204 of the *Penal Code*. The particulars were that on the night of 4<sup>th</sup> day of December 2018, at Nanyuki Town in Laikipia Town in Laikipia East Sub-County within Laikipia County jointly with others not before court murdered George Gachibi Karegwa.
2. Upon a change of plea, she pleaded guilty to the charge on 31/10/24.
3. The matter is before court for sentencing.
4. The court has a wide discretion on the question of sentence. However, the said discretion cannot be used by the Court of law in a fanciful and whimsical manner. Every case has to be decided on the consideration of its circumstances including the gravity of offence, victim impact, the need to deter crime and the rehabilitation of an offender among others. The discretion does not open a carte blanche for a whimsical decision on the appropriate sentence. In *The Nature of the Judicial Process* – Yale University Press 1921 Ed page 144 Benjamin N. Cardozo puts it in the following words;

“The judge even where he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion



informed by tradition, methodized by analogy, disciplined by system, and subordinated to ‘the primordial necessity of order in the social life’ . . .”

5. The question then that I have to grapple with at this stage is what would constitute an adequate, appropriate and just sentence in the circumstances of this case? In the case of [\*State Of Madhya Pradesh v Mehtaab\*](#) Cr. Appeal No. 290 of 2015, the Supreme Court of India held:

It is the duty of the court to award just sentence to a convict against whom charge is proved. While every mitigating or aggravating circumstances may be given due weight, mechanical reduction of sentence to the period already undergone cannot be appreciated. Sentence has to be fair not only to the accused but also to the victim and society. It is also the duty of the court to duly consider the aspect of rehabilitating the victim.”

6. The objectives of sentencing as stated in paragraph 4.1 of the [\*Judiciary Sentencing Policy Guidelines\*](#) can be summarized as follows:

- a. To prevent the occurrence of crime;
- b. To punish the transgressor and the criminal;
- c. To rehabilitate the transgressor and the criminal;
- d. To compensate the victim;
- e. To deter the offender from committing any criminal acts in the future as well as other people from committing similar offences and
- f. To protect the community condemnation of the convict.

7. The importance of sentence was emphasized by the Supreme Court of India in the case of [\*Antony Pereira v State Of Maharashtra\*](#) (2 AIR 2012 SC 3802) where it stated:

70. Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles; twin objective of the sentencing policy is deterrence and correction. What sentence would meet the end of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.

8. I have carefully considered the nature of the offence, the manner of its execution, the conduct of the Accused even after the dastardly act whereby she had the temerity to steal items from the deceased. I have considered the pre-sentence inquiry report and the victim impact assessment report.

9. I have in addition considered the mitigation put forth by the accused through her advocate and the State’s submission on sentence. I have taken note of Accused’s antecedents whereby she has 3 previous convictions on capital offences. No doubt a heinous crime through which an innocent life was lost was committed. The attack was brutal, without remorse, and the Accused proceeded to steal valuables from the deceased even after robbing him of life’s most precious gift from God, life itself. No doubt a deterrent sentence is desirable.

10. The Accused is to serve 40years imprisonment.

Right of Appeal explained.



**DATED SIGNED AND DELIVERED IN OPEN COURT THIS 4<sup>TH</sup> DAY OF JUNE 2025.**

**A.K. NDUNG’U**

**JUDGE**

