



REPUBLIC OF KENYA



**Republic v Saya (Criminal Case E007 of 2021)  
[2025] KEHC 11307 (KLR) (Crim) (29 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 11307 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL CASE E007 OF 2021**

**AM MUTETI, J**

**JULY 29, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**WALTER LUMUMBA SAYA ALIAS KEN ..... ACCUSED**

**SENTENCE**

1. The accused person in this case was initially charged with the offence of Murder under Section 203 as read with 204 of the *Penal Code*.
2. The accused person offered to plead guilty to the lesser offence of manslaughter contrary to Section 202 as read with 205 of the *Penal Code*.
3. The accused person and the state on the other hand concluded a plea agreement which was duly signed and filed before this court on 25<sup>th</sup> February 2025.
4. The manslaughter information dated 24<sup>th</sup> February 2025 was read over to the accused on the 5<sup>th</sup> May 2025 in the presence of counsel and the accused person pleaded guilty to the charge.
5. The prosecutor read out the facts to the accused and he admitted the same to be true and correct.
6. The court proceeded to convict the accused on his own plea of guilty for the offence of manslaughter under Section 202 as read with 205 of the *Penal Code*.
7. The facts revealed that the deceased and the accused were married and lived together in Muthurwa Estate in Nairobi.
8. The two would quarrel often and on the 7/2/2021 at about 21:00 hrs the two were overheard quarrelling by neighbors.



9. The accused allegedly accused the deceased of engaging in extra marital affairs with other men.
10. The accused person assaulted the deceased using an electric cable and when one Albert Kipchumba went into the house to separate the he was unable to do so and the accused went on beating the deceased for about 2 hours.
11. After about 2 hours all went quiet and the following morning the accused person went to the house of Albert Kipchumba at about 4:00am to borrow a bulb.
12. It is then that Albert Kipchumba followed him to his house and found the deceased lying naked in bed with injuries all over her body.
13. The deceased was already dead.
14. Albert went and reported the matter at Muthurwa Police Post but the police did not immediately come to the scene.
15. The accused left the house that morning went and informed his two neighbors who advised him to report the matter to Kamukunji Police Station.
16. The scene was visited and the deceased's body was removed to the mortuary.
17. The post mortem revealed that the deceased died out of shock due to multiple injuries.
18. At the time of the commission of the offence the accused was of sound mind.
19. The accused pleaded for leniency of this court in sentencing.
20. He pleaded with the court to allow him mitigate in person for he felt strongly that he needed to address the court.
21. This court allowed him in the spirit of Article 50 of the Constitution notwithstanding the fact that he was represented.
22. He stated that the offence as shameful in his view and he prayed for forgiveness.
23. The accused also apologized his family and that of the deceased.
24. The accused told the court that he was temperamental and he used to take alcohol.
25. The accused says that while in prison he has learnt anger management and how to live peacefully with other members of the society.
26. He further told the court that he is now reformed and ready to rejoin the society a changed man.
27. Ms. Ajjambo counsel for the accused told this court that the accused is remorseful for what he did and his prayer is that he be given another chance in life to go and rebuild his life.
28. Counsel urged the court to consider that the accused has, while in prison over the four years undertaken various courses all geared towards rehabilitating him.
29. The court has reviewed all the certificates availed to the court by the accused.
30. Counsel for the accused also pleaded with the court to consider imposing a non custodial sentence in order to allow the accused person an opportunity to go and take care of their single child.
31. The court has also been urged to consider the presentence report dated on 5/6/2025 in which the probation officer has recommended a non -custodial sentence.



32. The accused person is said to enjoy a strong family support system and the probation officer says that his anger management can be handled through therapy and giving guidance to the offender.
33. The court has taken note of the facts of the matter as well as the mitigating factors laid out by the defence.
34. The offence of manslaughter attracts a maximum sentence of life imprisonment.
35. The court is however bound to consider all the mitigating factors in a particular case.
36. The court must however make it clear that sexual gender -based violence is a problem that this court has to firmly deal with whenever it rears its ugly head in a matter.
37. Spouses who suspect others of engaging in extra marital affairs must be reminded that they have the option of walking out of the marriage and go live peacefully out there and probably find a partner that in their view is morally upright.
38. The answer to suspected promiscuity is not to batter your spouse to death or at all.
39. The union of marriage is a voluntary one and no one should ever feel obligated to remain in it, if it becomes abusive and intolerable. That is precisely why the law governing divorce and separation exists.
40. It is not open for a man or woman to engage in physical assault as away of resolving marital issues. The freedom to leave is there and spare the other party pain and agony.
41. The accused in this case is said to have suspected his wife the deceased of engaging in extra marital affairs.
42. He did not catch her in the act but all he acted on was sheer suspicion. He went overboard in assaulting her senselessly even as the friend and neighbor Albert Kipchumba pleaded with him to stop.
43. The action of the accused was uncalled for and he ought to have taken counsel from Albert when he came into the house and pleaded with him.
44. The accused is said to be 29 years old thus he is within that youthful age bracket where love at time blinds an individual and jealously consumes their rational self especially at the thought of one engaging in an extra marital affair. However, the youth must know life is precious and any one taking it lightly will suffer dire consequences of his or her actions.
45. We must inculcate a culture of respect for each other rights in a family setting. No one has the right to take the life of another no matter the cause.
46. The court takes note of the weapon used here and is in agreement with the prosecution that there was no malice aforethought on the part of the accused.
47. He used an electric cable which is not necessarily a weapon capable of inflicting fatal injuries unless it is used to strangle a person.
48. In *Rex v Tuper son of Ocher* [1945] 12 EACA 63 the court held:-

“ it (the court) has a duty to perform in considering the weapon used and the part of the body injured, in arriving at a conclusion as to whether malice a forethought has been established, and it will be obvious that ordinarily an interference of malice will flow more readily from the case, say of a spear or knife than from than the use of a stick....”. To the list of stick this court adds an electric cable. The cable may not pass for a manifestly offensive weapon but it certainly caused the injuries resulting into death.



49. The accused person passionately made a case for a non- custodial sentence but this court is not persuaded to go in that direction.
50. The sentencing guidelines of the court and the general principles of sentencing call for deterrent sentences to be imposed in appropriate cases. This is one such case.
51. It may be true that the accused is reformed but a prison term in this court's view is most appropriate taking into account the fact that the accused continued to assault the deceased as she screamed in pain until she went quiet. Further, his failure to heed Albert's caution to stop the assault is a fact this court has taken serious note of.
52. The court takes judicial notice of the rise of sexual gender -based violence and femicide cases in the country which situation calls for urgent decisive action to deter would be offenders. The sentencing guidelines and policy of the judiciary emphasize on deterrence as one of the goals of sentencing and this court appreciates the need to effectively communicate to society that it cannot be business as usual when it comes to deal with domestic violence cases,
53. The society must embrace a culture of respect for human dignity and life. The right to life under Article 26 of the Constitution must be upheld at all times and by all persons. No one has the license to take the life of another.
54. The society needs to be reminded that the respect for human life is not a choice but a command of the supreme law. The accused in this matter acted in a beastly manner and he must bear the full consequences of his actions.
55. As a result, the accused person is hereby sentenced to serve 25 years imprisonment to be computed from the time of his arrest on 8<sup>th</sup> February 2021.
56. The accused person has a right of appeal on the severity of sentence within 14 days from the date hereof.
57. It is so ordered.

**DATED, SIGNED AND DELIVERED IN VIRTUAL COURT AT NAIROBI THIS 29<sup>TH</sup> DAY OF JULY 2025.**

**A. M. MUTETI**

**JUDGE**

In the presence of:

Kiptoo: Court Assistant

Ajiambo for the Accused

Ms Njoroge for the state

Accused - present

