



**Republic v Olow (Criminal Case E005 of 2025)
[2025] KEHC 10092 (KLR) (14 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 10092 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE E005 OF 2025**

**JN ONYIEGO, J
JULY 14, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

FARAH OMAR OLOW ACCUSED

SENTENCE

1. The accused herein is charged with the offence of murder contrary to section 203 as read out with section 204 of the penal code. Particulars are that on the 23rd day of April 2025 at Hella area, Township Location, Garissa Sub-county within Garissa County he murdered Ibrahim Abas Abdi.
2. Before the hearing could commence, there was engagement and negotiation between the victims' family and that of the accused. With the guidance of the defence and prosecution counsel, a plea-bargaining agreement was arrived at and subsequently executed by both parties on 23rd day of June, 2025.
3. In the said agreement which involved both families forgiving each other and some bit of compensation to the victim's family, the accused agreed to plead guilty to committing a lesser charge of manslaughter contrary to section 202 as read with section 205 of the penal code. He subsequently pleaded guilty on 3rd July, 2025 and accordingly got convicted the same day. The court then ordered for a pre-sentence report.
4. According to probation report; the offender is recommended for a non-custodial sentence. The report revealed that the accused person's family had apologized and compensated the victim's family kes 850,000/= . That the two families have forgiven each other and are co-existing peacefully. That both the accused and victim's communities have welcomed the reconciliation.
5. According to the accused person's counsel in mitigation, the accused is; a first offender; he is remorseful; he is a young man aged 31 years and therefore required to build society; has a wife and 4 children who



depend on him; he is the sole breadwinner although sickly; has saved Court's time by pleading guilty and is suitable for non-custodial sentence.

6. It is trite that sentencing is at the discretion of the trial court. See Kipkoech Kogo - vs - R. Eldoret Criminal Appeal No.253 of 2003 where the Court of Appeal stated thus: -

“sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence, the sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these, the sentence itself is so excessive and therefore an error of principle must be interfered (see also Sayeka – vs- R. (1989 KLR 306)”

7. Similar position was stated by the court of appeal in Bernard Kimani Gacheru vs. Republic [2002] eKLR where it was stated that:

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist.”

8. It is however worth noting that in exercise of its discretion, a court is duty bound to take into consideration certain guiding principles interalia; the aggravating nature of the offence committed; the mitigating factors; pre-sentence report; previous criminal record of the accused; and victim impact assessment report. See judiciary sentencing policy guidelines clause 4.5 of 2023.

9. This court is pretty aware of the objectives of sentencing which are also captured in the judiciary sentencing policy guidelines clause 1.3.1 of 2023 as; retribution, deterrence, rehabilitation, restorative justice, community protection, denunciation, reconciliation and reintegration.

10. In the instant case the pre-sentence report painted a picture of the subject being a good man who committed the offence out of poor anger management. That the two families have since reconciled and forgiven each other after some form of compensation was made. That the community is receptive to the subject joining them as the offence was not intended.

11. Taking into account circumstances under which the offence herein was committed and the mitigating factors on record, and further, taking into account that the affected families have since forgiven each other and the deceased and the accused before this incident were friends, am of the view that a more lenient sentence is necessary. In the circumstances, the subject is committed to serve three years' probation period.

ROA 14 days

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 14TH DAY OF JULY 2025

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J. N. ONYIEGO

JUDGE

