



**Republic v Mwikya & another (Criminal Case E003 of 2025)
[2025] KEHC 9561 (KLR) (1 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9561 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITUI
CRIMINAL CASE E003 OF 2025**

LW GITARI, J

JULY 1, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

KOKI MWIKYA 1ST ACCUSED

MWIKYA KITHUKU 2ND ACCUSED

JUDGMENT

1. The accused person Koki Mwikya was initially charged with murder contrary to Section 203 as read with Section 204 of the *Penal Code*. She is the first accused in this matter. It is alleged that on 31/12/2024 at around 2200Hours at Kitumbi Village, Makuka Sub-Location Mwitika Division in Kitui County, jointly and with common intention murdered one Mukai Mwikya. The accused denied the charge of murder.
2. She however, offered the state plea bargaining. The state accepted the request and entered a plea agreement under Section 137 A-O of the *Criminal Procedure Code* (Cap 75 laws of Kenya). Under the agreement the accused agreed to plead guilty to a charge of Manslaughter.
3. The accused person was charged with manslaughter contrary to Section 205 of the *Penal Code* (Cap 63 Laws of Kenya). It was alleged that on 31/12/2024 at around 2200Hours at Kitumbi with common intention with another before court unlawfully killed Mukai Mwikya. The accused pleaded guilty to the charge and admitted the facts which were as follows:

On 23/12/2024 at about 10.00pm the accused Koki Mwikya was at home when she was engaged in a quarrel with Mukai Mwikya who was her step-child. The reason for the quarrel was that the deceased had disappeared from home without her permission. The accused was offended because the deceased had a medical condition for which she was taking medication.



4. The quarrel degenerated into physical confrontation. The deceased took her stand. The accused was joined by her husband who is the 2nd accused and father of deceased and they were infuriated. The accused assaulted the deceased by slapping her and caned her on the back, shoulder, neck and head. The accused told the deceased who was seventeen years old to go and sleep. In the middle of the night, the deceased asked the accused to take her outside for a short call and to vomit as she was not feeling well. She went out and then back to the house.
5. The next morning, the accused went to check on the deceased and found that she was already dead. The accused informed 2nd accused who in turn reported to the authorities and a postmortem was later conducted on the body. The doctor opined that the deceased died as a result of head injury inflicted by heavy object leading to brain damage.
I produce the postmortem form as exhibit 1. The accused and her co-accused were arrested and charged.
6. The accused person admitted the facts of the case and she was accordingly convicted on her own plea of guilty. This court called for a pre-sentence social inquiry report and one was filed by Veronica Njagi, a Probation Officer. The probation officer has recommended a probation sentence of three years. The counsel for the accused Mr. Kilonzi has pleaded with the court to exercise discretion in sentencing and pleads for leniency. He has cited decisions where the courts have exercised discretion in sentencing. The accused was treated as a first offender.
7. I have considered that the offence of Manslaughter is serious and carries a maximum sentence of life imprisonment. In this case a life was lost. The deceased was a young girl who was barely an adult. I have looked at the postmortem form and noted that she died a cruel death whereby severe injuries were inflicted on her by her parents.
8. Although the probation officer has recommended a none custodial sentence of probation, I note that justice is about balancing the rights of all the parties. Article 159 of the *Constitution* gives courts mandate to do justice to all irrespective of status. This court should also strive to do justice for the victim.
9. A light sentence like a pat on the back would not serve to discourage the offence. The accused has other children and this court should look that wider picture that the offence is not repeated to those other children. The court should however, give some credit to the plea of guilty which has saved judicial time and endured expeditious disposal of the case.
10. I have considered the mitigation. I have considered the cases cited to plead for a leniency. It is trite that each case must be considered on its own individual circumstances. In this case the accused has pleaded guilty and the extraneous matters that she may have been influenced by the co-accused does not arise.
11. I find that a custodial sentence is called for. I order as follows:
 1. The accused will serve seven years imprisonment which run from 22/1/2025 when she was charged in court and placed in custody to await trial.
 2. The sentence shall be served as follows:
 - a. 7 years imprisonment.
 - b. The last two years shall be served on probation.
 3. The children officer to open a protection and care file for the children of the accused and file the matter in the children's court.



DATED, SIGNED AND DELIVERED AT KITUI THIS 1ST DAY OF JULY 2025

HON. LADY JUSTICE L. GITARI

JUDGE

