



**Republic v Shilindwa (Criminal Case 11 of 2015)
[2025] KEHC 13054 (KLR) (22 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13054 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE 11 OF 2015
AC BETT, J
SEPTEMBER 22, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

JAMES OBULEMIRE SHILINDWA ACCUSED

RULING

1. The Accused was convicted of the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code.
2. In mitigation, Mr. K'Ombwayo for the Accused submitted that the Accused is remorseful and has approached the family members of the deceased and tendered his apology, which was accepted. He further submitted that the Accused is a first offender and the sole breadwinner of the family whose young family comprising of two children of tender years look up to.
3. I have considered the pre-sentence report. The Accused is said to be adamant that he did not commit the offence. This is in spite of the overwhelming evidence that led to his conviction. The Accused person's stance is evident in the written submissions filed by his Advocate who says that the Accused was not said to have hit the deceased but was only found culpable by virtue of his presence at the scene at the time of the incident. This contradicts the evidence of PW6 who testified that he witnessed the Accused and his cohorts beat the deceased. In the premises, I can only conclude that the Accused is not remorseful.
4. The Sentencing Policy Guidelines require that the courts be guided by the following objectives:-
 - “(a) Retribution
 - (b) Deterrence
 - (c) Rehabilitation



- (d) Restorative justice
- (e) Community protection
- (f) Denunciation
- (g) Reconciliation
- (h) Reintegration”

5. Additionally, the Supreme Court of Kenya issued the following guidelines in respect to re-sentencing hearings for murder convicts:-

- “(a) Age of the offender;
- (b) Being a first offender;
- (c) Whether the offender pleaded guilty;
- (d) Character and record of the offender;
- (e) Commission of the offence in response to gender-based violence;
- (f) The manner in which the offence was committed on the victim;
- (g) The physical and psychological effect of the offence on the victim’s family;
- (h) Remorsefulness of the offender;
- (i) The possibility of reform and social re-adaptation of the offender;
- (j) Any other factor that the court considers relevant.

6. The Accused acted with a group to inflict mob justice to the deceased. In doing so, they employed crude weapons after tying the deceased’s hands, legs and private parts. It was a gruesome attack that calls for retribution. Further, a message must be sent to the public that they should never take the law into their hand since some of the objectives of sentencing are to punish the offender as well as to separate the offender from the society therefore keeping the society safe.

7. In considering the mitigating and aggravating facts in this case, I find that the aggravating facts far outweigh the mitigating facts.

8. In the case of Republic v. Antony Mugambi Gitari & Another (KEHC) 6584 (KLR), the Accused persons were each sentenced to 20 years’ imprisonment after conviction for the murder of the deceased through mob justice.

9. In the case of Republic v. Vitalis Owuor Ogira & 2 others [KEHC] 10144 (KLR), the court imposed a sentence of 15 years’ imprisonment for Accused persons who were found guilty of jointly murdering the deceased on suspicion that he had stolen some items.

10. I have carefully considered the circumstances under which the Accused committed the offence, the pre-sentence report, as well as the Accused’s mitigation. I have also taken into account the fact that the Accused remained in custody from 14/2/2015 when he was arrested until 8/6/2015 when he was released on bond. I sentence the Accused to fifteen (15) years imprisonment to run from the date of the sentence.

11. The Accused has fourteen (14) days right of appeal.



DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 22ND DAY OF SEPTEMBER 2025.

A. C. BETT

JUDGE

In the presence of:

Ms. Chala for the Prosecution

Mr. Mulama holding brief for Mr. K'ombwayo

for the Accused

Court Assistant: Polycap

