



**Republic v Nduku (Criminal Case E017 of 2023)
[2024] KEHC 798 (KLR) (1 February 2024) (Sentence)**

Neutral citation: [2024] KEHC 798 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CRIMINAL CASE E017 OF 2023
SC CHIRCHIR, J
FEBRUARY 1, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

ALFRED OWINO NDUKU ALIAS AMBROSE ACCUSED

SENTENCE

1. The accused was initially charged with the murder of Lorine Masinde. Pursuant to a plea bargain, the charge was reduced to manslaughter. The accused pleaded guilty to the lesser charge and was consequently convicted on his own plea.

Accused’s Mitigation.

2. Through his counsel, Ms. Muthami, the accused submitted that he is remorseful; that both the Accused and the victim were drunk. He states that he has children, who need his care. He prays for a non-custodial sentence.

Prosecutor’s Submissions

3. It is the prosecutor’s submission that the murder was not provoked; that indeed he prevented other people from coming to the rescue of the deceased, and never sought any medical intervention for the deceased after injuring her. The prosecution further points out that the accused buried the deceased in a shallow grave, and lied about her whereabouts when he was asked. The prosecutor asserts that these were acts of a well- planned killing. The prosecutor sought for a custodial sentence.



Determination

4. I have considered the parties submissions, and the presentencing report. The report indicates that the accused had previously been accused of cattle theft, alcoholism and intemperate nature. He is described by local Administration as a troublesome person.
5. It is apparent that the victim was his live-in lover as his wife had long left due to the threats from the accused. This was therefore a case of Domestic violence.
6. I have also considered the circumstances of the offence. Even if the attack was not premediated, it is apparent that the accused never sought any medical intervention for deceased. He also tried to conceal his crime by burring the body in a shallow grave. When questioned about he deceased's whereabouts, he kept telling people that she is around. The above is not a typical reaction of a person who would be said to be remorseful, of an otherwise "accidental act"
7. In mitigation, I have considered that the accused is first offender. Despite indication of criminal activities as brought out in the probation report, there is no evidence of a previous criminal conviction. I have also taken into account the fact that the accused has pleaded guilty at the earliest, albeit, to a lesser charge.
8. Considering all the foregoing, I hereby sentence the accused to 10 years in prison. The sentence will run from 3.4.2023, being the date, in which was first arraigned in court.
9. Right of Appeal- 14 days.

DATED SIGNED AND DELIVERED AT KAKAMEGA THIS 1ST DAY OF FEBRUARY, 2024

S. CHIRCHIR

JUDGE

In the Presence of;-

The Accused

Rono- Court Assistant.

Mr. Leina for DPP

