



**Republic v Bosuben (Criminal Case 5 of 2018)
[2024] KEHC 2582 (KLR) (13 March 2024) (Sentence)**

Neutral citation: [2024] KEHC 2582 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 5 OF 2018**

JK SERGON, J

MARCH 13, 2024

BETWEEN

REPUBLIC PROSECUTOR

AND

CHARLES KIPLANGAT BOSUBEN ACCUSED

SENTENCE

1. Charles Kiplangat Bosuben the Accused herein, was charged and convicted with the offence of murder contrary to section 203 as read with section 204 of the Penal Code Cap 63 Laws of Kenya. The particulars of the offence are that on the 23rd November, 2017 at Cheptendeniet Village, Cheboin Location in Bureti Sub-County within Kericho County, the Accused murdered Willy Kipkemoi Kigen.
2. Upon convicting the accused for the aforesaid offence, this court directed the county Probation Officer to file a pre-sentence Report and also invited the Accused to make submissions in mitigation to guide the Court in determining the appropriate sentence to be meted out.
3. Mr. Kileyen the Learned Counsel for the accused submitted in mitigation that the accused is remorseful, regrets the commission of the offence and is willing to be rehabilitated. He submitted that the accused has two wives and ten (10) children who depend on him for their upkeep. The Learned Counsel submitted that the accused had cooperated with the investigating agencies. He further submitted that the accused is a first offender, he therefore urged this Court to exercise leniency during sentencing.
4. Mr. Musyoki, Learned Assistant Director of Public Prosecutions submitted that the accused did not exhibit any remorse during trial. He further submitted that the accused armed himself and fatally assaulted the deceased. The Learned Assistant Director of Public Prosecutions was of the view that



the circumstances under which the offence was committed warranted a severe sentence and therefore a custodial sentence was appropriate.

5. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer. In the aforesaid report it is noted that the accused ekes his living as a small scale farmer on the family land. He has a large family consisting of two wives and ten children who depend on him for school fees and basic necessities.
6. On the material day, the offender alluded that he was not in the vicinity when the deceased died, he was away at a circumcision ceremony in a far away village. The offender identified the deceased as his nephew, he maintained that he was maliciously implicated in the awful offence because of a subsisting land dispute between his family and the deceased's family. He urged this Court to exercise leniency.
7. The offender enjoys strong ties in the community. It is said that while out on bond, the Accused did not face any hostility from the community. The community does not associate the offender with the commission of the offence. They acknowledge the existing land dispute and faulted the deceased and his immediate family members for not allowing the matter to be resolved amicably. The community was not opposed to a non custodial sentence as it would afford the offender a chance to continue championing reconciliation and play his part as a good role model of parenting in the community.
8. The family of the deceased were hesitant to take part in the traditional reconciliation rites despite several attempts by the extended family, clan and community members to reconcile the two families for a peaceful stay and co-existence.
9. The county probation officer while taking cognizance of the findings of the social inquiry which revealed the existence of a land dispute which the offender's family, clan and community members suspected was the sole reason the offender was implicated in the offence and yet the deceased's family were adamant in accepting that there was need for the family to find a lasting solution to the land dispute. The probation officer recommended that the offender be placed on probation order for three (3) years and that during supervision be counselled on anger management skills and that the same would afford him a chance to pursue reconciliation.
10. I have considered the fact that the accused was arrested on 14th November, 2017, arraigned in court on 15th December, 2017 and remanded in custody for a period of one (1) year and ten (10) months before being released on bond on 19th September, 2019.
11. Having considered the circumstances of the offence, submissions in mitigation and having further considered the pre-sentence report, it is apparent that in the circumstances of this case that a short custodial sentence is appropriate.
12. Consequently, I hereby sentence the accused namely: Charles Kiplangat Bosuben to serve five (5) years imprisonment.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 13TH DAY OF MARCH 2024

J. K. SERGON

JUDGE

In the presence of:-

C/Assistant – Rutoh

Prosecutor – Mr. Musyoki

Convict – Present in Person



Kiletyen for the Accused

