



**Republic v Machupa (Criminal Case E034 of 2021)
[2024] KEHC 2266 (KLR) (5 March 2024) (Sentence)**

Neutral citation: [2024] KEHC 2266 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE E034 OF 2021**

**A. ONG'INJO, J
MARCH 5, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

NYANJE MAZERA MACHUPA ACCUSED

SENTENCE

1. The accused person Nyanje Mazera Machupa was charged with the offence of murder contrary to Section 203 as read 204 of the *Penal Code*.
2. Particulars are that Nyanje Mazera Machupa on the 19th day of October 2020 at Kiwegu Village in Vanga Location Lungalunga Sub-County within Kwale County, with others before court murdered Mwalewa Jeffa.
3. The accused person was found guilty and convicted, and the Presentence Report as well as the Victim Impact Statement were called by the court. Mr. Ochieng' mitigated on behalf of the accused person and said he was a sole bread winner to his wife and children. He said that he had been in custody since 8th January 2021 and believed that he had learnt his lesson. He said that the accused was remorseful and ready to be reintegrated into society.
4. The views of the community in the Presentence Report in respect to the accused person are not favourable. The accused is perceived negatively due to his close association with the 1st accused person in Criminal Case No. E014 of 2020. He was also an accused person in Msambweni Law Courts where the deceased herein was the complainant and he went underground for over one year after the offence herein was committed. Members of the community said they were relieved when they learnt that he had been arrested as he was adversely mentioned in relation to the death of the deceased.
5. The Victim Impact Statement was also filed on 28th February 2024 and it shows that the long standing feud between the 1st accused in Criminal Case No. E014 of 2020, and his mother and siblings



on the one hand and the deceased before and after the incident herein caused profound emotional and psychological impact on the secondary victims. That a sustained emotional and psychological attacks on the secondary victims made the whole family to leave their home. The secondary victims have reported other incidences to the police which are under investigation. It is indicated that Nyale Mwalewa Jefa, the son of the deceased had shown signs of psychological breakdown.

6. In consideration of the Pre-Sentence Report, the Victim Impact Statement, mitigation by the accused person, and the circumstances of the offence herein, this court finds that the offence committed by the accused person and the manner in which it was committed is very serious. The accused person committed this offence while he was still facing trial at the Msambweni Magistrate Court for the offence of attempted murder where the deceased was the complainant. The accused person deprived the deceased of his life contrary to Article 26 (1) and (3) of the *Constitution* of Kenya 2010 and did not care that the action was going to have far reaching psychological effects on the dependants of the deceased who have been left widowed and orphaned respectively. He has further continued to issues threats while in prison custody and several reports have been booked and pending investigations.
7. The offence committed requires a deterrent sentence that mirrors the negative consequences of one's involvement in criminal activities. A custodial sentence is called for and I hereby sentence the accused person to a term of forty (40) years imprisonment. The sentence to run from 8th November 2021 pursuant to Section 333(2) of the *Criminal Procedure Code*. Right of appeal within 14 days explained.

DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS, THIS 5TH DAY OF MARCH 2024

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Etropia- Court Assistant

Mr. Ngiri for the State

Mr. Ochieng' Advocate for the Accused

Accused present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

Court: Certified copies of the judgment and proceedings to be supplied to the state and defence.

HON. LADY JUSTICE A. ONG'INJO

JUDGE

