



State v Wanyoike (Criminal Case 18 of 2017) [2024] KEHC 7515 (KLR) (24 May 2024) (Ruling)

Neutral citation: [2024] KEHC 7515 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 18 OF 2017
DO CHEPKWONY, J
MAY 24, 2024**

BETWEEN

STATE PROSECUTION

AND

LEAH WANJIRU WANYOIKE ACCUSED

RULING

1. The accused Leah Wanjiru Wanyoike was charged 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 25th day of March, 2017 at Gakoe village within Gatundu North Sub county in Kiambu County the accused murdered Elijah Wanyoike Wanjiru”.

2. On 9th May, 2015, the accused pleaded ‘Not Guilty’ to the offence of Murder. Later, the accused sought for and was granted a plea bargain wherein the agreement was executed as between the parties on 31st October, 2023. The charge of murder was substituted with a lesser charge of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. And on 21st December, 2023, the accused pleaded ‘Guilty’ to the offence of Manslaughter.
3. The facts of the case were that on the material date of 25th March, 2017. the deceased who was working as a matatu conductor was on his way home, when he met his friend, one Arthur Kimani and had a chat. The deceased then went home, found his wife and she served him rice and potatoes. That as they were having the meal, the deceased who was a bit drunk claimed that the accused had stolen some of his money which he had kept in the house. Consequently, a quarrel ensued between them and the deceased threatened to kill the accused and later kill himself.
4. That the deceased went and picked a kitchen knife and he started to struggling with the accused. During the said scuffle, the deceased’s thigh was stabbed above the knee and due to the heavy bleeding he was



- rushed to Gakoe Health Centre where he was pronounced dead on arrival. The body was then moved to Thika Level 5 Hospital and the accused was arrested. A post mortem examination was conducted on the deceased's body and the cause of death was found to be exsanguination from femoral vessels due to stab wounds in the thigh. The post mortem report was compiled and produced as PEXB1.
5. The Accused was then charged with the offence of murder which was substituted with a lesser charge of Manlaughter after a Plea Bargain Agreement. The Accused pleaded guilty to the offence and stated that the facts as read out were correct. The court entered a 'Plea Of Guilt' for the accused.
 6. The court is now called upon to determine the appropriate sentence for the accused. It called for a social inquiry to be conducted on the accused by the Probation and Aftercare Services Department and for a pre-sentence report to be filed. The pre-sentence report was filed on 17th January, 2024. In compiling the said report, the Probation Officer indicated that in conducting a social inquiry on the accused's family background, the personal history, circumstances of the offence, attitude towards the offence, view of the victim's family attitude of the community towards the offender and the circumstances under which the offence was committed to come up with recommendations.
 7. Having conducted the social inquiry, the Probation Officer concluded that the Accused person is 35 years old and she readily admits the commission of the offence. She noted that the accused is remorseful and pleads for court's pardon. She also reports that she is a mother to two children who are currently under the care of her mother and that her family is supportive of her and pleads that she be accorded a lenient sentence, preferably a non -custodial sentence.
 8. Further, the probation Officer reports that the family of the deceased and that of the accused had met and agreed to forgive the offender despite the painful loss of their kin. The mother and siblings of the deceased have come to terms with his death and have no hostility towards the accused who they want released so that she can take care of her children.
 9. The Senior Probation Officer confirms that her office is ready to work closely with the accused and her family in order to support her in the rehabilitation programme. She also confirms that the office undertakes to engage interventions to ensure the Accused person's psychosocial needs which include counselling and promotion of better anxiety management.
 10. In her recommendations, the Probation Officer has stated that the Accused is suitable for a noncustodial sentence and she can thus be placed on probation.
 11. Having considered the circumstances under which the offence was committed, the information in the Plea Bargain Agreement dated 31st October, 2023, alongside that in the pre-sentence report filed dated 17th January, 2024, the court is cognisant of the fact that a man lost his life at the prime age of 31 years. Life is sacred and terminating one's life can never be taken for granted or trivialized.
 12. The sentence for a charge of Manslaughter is provided for under Section 205 of the [Penal Code](#) as follows:-

“ Any person who commits the felony of manslaughter is liable to imprisonment for life.”
 13. However, a consideration of all the material placed before court reveal that the incident happened out of a domestic scuffle with unrebutted evidence that the deceased was drunk and is the one who pulled the knife while threatening to kill the accused and himself. The Probation and After Care Report is positive towards the accused who they say has the support of her family and that of victim's family who are all urging for her release so she can take care of the children, who lost their father (deceased).



14. In view of all that, the court has also taken into account the amended guidelines in the Muruatetu Case which include a consideration of age of the accused, her being a first offender, her plea of guilt, character and record and agrees with the Probation Officer that the accused will benefit more from a non-custodial sentence, which is aimed at achieving deterrent and restorative results as opposed to retributive results.
15. The court then proceeds to sentence the Accused person to three (3) years' probation on condition that:-
 - a. The accused person must obey the Supervisory Probation Officer and comply with any condition set by the Probation Department.
 - b. She must remain of good conduct.
 - c. She must not commit any offence during the probation period.
 - d. The Accused must attend guidance and counselling sessions to be organised by the Probation Department.
 - e. Failure to comply with any of the above conditions, the accused will be arrested and brought back to this court for a custodial sentence to be passed against her.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS ...24TH ... DAY OF ...MAY..., 2024.

D.O CHEPKWONY

JUDGE

In the presence of:

M/S Wafula holding brief for Mr. Kiunga for accused person

Mr. Gacharia for the State

Court Assistant - Martin

