



**Republic v Loremet (Criminal Case 69 of 2020)
[2024] KEHC 6671 (KLR) (7 June 2024) (Sentence)**

Neutral citation: [2024] KEHC 6671 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL CASE 69 OF 2020
JRA WANANDA, J
JUNE 7, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPH LOREMET ACCUSED

SENTENCE

1. The Accused was charged with two counts of the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#).
2. In Count I, the particulars were that on 21/11/2020 at Kapkabai Farm, Sosiyo sub-Location, Karuna Location in Moiben sub-County within Uasin Gishu County, he murdered one Nancy Cheruto. In Count II, the particulars were that on the same date and place, he murdered one Cheruiyot Lomuria.
3. He took plea on 3/12/2020 before H. Omondi J, pleaded not guilty and was then admitted to bail. From the record however, the Accused appears to have remained in custody throughout the trial. After several adjournments, the parties informed the Court that they were engaged in plea-bargain negotiations and for this reason, hearing of the case was deferred on several occasions to give them time to finalize such negotiations. Eventually, on 23/01/2024, the plea bargain agreement was presented to the Court and the same indicated that the Accused had agreed to plead guilty to the lesser charge of manslaughter. The matter therefore proceeded to plea bargain hearing. The proceedings were conducted in Kiswahili which is the language that the Accused claimed to understand.
4. The Accused, who was represented by Ms Cheruiyot Mitei Advocate, was then sworn. Upon examination under section 137F of the [Criminal Procedure Act](#), he stated that he voluntarily and without any coercion, affixed his thumb-print on the plea-bargaining agreement dated 19/01/2024 and that he fully understood the effect thereof. He thus confirmed that the affixing of the thumb-print signified his consent to the agreement.



5. Upon satisfying myself that the provisions of sections 137E - 137G of the *Criminal Procedure Act* had been observed and complied with, including by the Court, I directed that the Accused take a fresh plea which he did for the charge of manslaughter. He then pleaded guilty to this charge. The facts of the case were read out to him and which he admitted as being correct and true. Accordingly, this Court then confirmed the plea of guilty and convicted the Accused for the offence of manslaughter under section 202 of the *Penal Code* as read with section 205 thereof.
6. The facts of the case are that in the month of November 2020, the Accused who was working at Kapkabei Farm as a labourer brought into the farm his friend, the said the late Cheruiyot Lomuria and secured him a job as a fellow casual labourer and they worked together. The accused lived in the farm together with his wife, the said the late Nancy Cheruto. They welcomed the said Cheruiyot Lomuria into their small wooden house where they spent time together and even shared food but since the house was small. The Accused requested his neighbour, one John Ekitala who was a watchman at the farm to give the said Cheruiyot Lomuria sleeping space in his house. The neighbour agreed and every evening, he would leave his house keys with Cheruiyot Lomuria while going to work so as to enable the latter access the house where he would spend his nights.
7. On 21/11/2020, the Accused and Cheruiyot Lomuria woke up early and went to work and Nancy Cheruto also woke up early and went to her parent's home in Kaplamai village. The Accused and Cheruiyot Lomuria later followed Nancy to her parent's home where they spent the better part of the day drinking chan'gaa. They then all left in the evening at around 6.00 pm and returned to their house at Kapkabei Farm where they arrived at around 7.30 pm. On arrival, they found the neighbour, John Ekitala (watchman) had already left for the night shift and had locked his house and went with the keys. The Accused went to pick the keys from Ekitala leaving his wife and Cheruiyot in the house. After about 30 minutes, the accused came back. He peeped through the window and saw Cheruiyot lying on the bed with his wife. He managed to open the door which was locked from inside with a wooden nail. He was angered by what he saw and picked a panga which was placed behind the door and slashed Cheruiyot on the back of his neck twice killing him instantly. The Accused then turned to his wife Nancy Cheruto who was lying on the bed and slashed her several times on the hands and face and she too died on the spot.
8. The Accused then left his house and called his neighbours Simon and Lokorio and informed them that he had killed two people in his house and that he was going to Karuna Police Station. Indeed, he went to the Police Station and surrendered himself. He handed over the panga to the police and informed them that he had killed and his wife and a man with whom he found having sexual intercourse in his house. Police Officers visited the scene and found the victims dead with horrible panga cuts. At the scene, the officers noted that the Accused's wife Nancy was fully clothed and was lying on her back with deep panga cuts on her hand and face while Cheruiyot Lomuria was also fully clothed and had been cut while seated on a wooden log. The officers took the bodies to Moi Teaching and Referral Hospital on 30/11/2020 where the post-mortem exercise were conducted. The same established the cause of death for Nancy Cheruto as asphyxia due to upper airway obstruction by blood clots due to cut wound/injury to the face consistent with assault and for Cheruiyot Lomuria as severe haemorrhage and asphyxia due to deep cut wound/injury to the neck due to assault. Blood samples were also taken from the bodies and together with the panga were submitted to the government chemist who after conducting analysis, confirmed that the blood samples from the panga belonged to the two deceased persons, Nancy Cheruto and Cheruiyot Lomuria.
9. The two post-mortem Reports and the Government Chemist's Report were produced in evidence as exhibits.



10. As aforesaid, the above facts were read out to the Accused and he again expressly admitted and confirmed all as true and correct
11. In her address, Ms. Okok, Senior Prosecution Counsel, submitted that the Prosecution had no previous criminal records on the Accused and that he could therefore be treated as a first offender. Regarding the sentence, she observed that two lives were lost in a gruesome manner. He proposed a sentence of 17 years imprisonment from the date of arrest. She conceded that the Prosecution had not managed to trace the family of the deceased persons and thus did not have the benefit of their sentiments.
12. On her part, Ms Cheruiyot Mitei, Counsel for the Accused, prayed for a lenient non-custodial sentence. She submitted that the Accused has 3 children with his second wife, all of whom are below 10 years, with the last born being 4 years, that the said second wife is jobless and depends fully on the Accused, that the Accused has no family living since he is an orphan and his siblings are not around after they parted about 25 years ago, that for this reason, the Accused could not even raise bail of Kshs 50,000/- granted by this Court. Counsel added that the deceased is remorseful and regrets committing the offence and invited the Court to consider the circumstances that led to the offence, namely, that he killed his wife and his best friend when he found them in a compromising situation in his matrimonial bed. He submitted that the Accused acted in the heat of passion caused by the sudden provocation.
13. Counsel submitted further that the Accused has been attending Christian fellowship and has become a law-abiding citizen deserving of a non-custodial sentence and that he is a first offender.
14. The applicable law on sentence for the offence of manslaughter is section 205 of the [Penal Code](#) which provides as follows:

“ Any person who commits the felony of manslaughter is liable to imprisonment for life”
15. In considering the mitigating factors, I have taken into account the manner in which the offence was committed, namely, that the Accused and the said Cheruiyot were friends and it is the Accused who brought the Cheruiyot Lomuria to his house and assisted him to get a job as a fellow labourer at the same place where the Accused used to work. I have also considered that on the fateful day, the Accused, having briefly left the two deceased persons (his wife and his friend) in his house, returned about 30 minutes later to find them lying together on his matrimonial bed in a compromising situation with the door blocked from inside with a wooden nail. The Accused seems to have immediately formed the opinion that the two were engaged in a sexual act on his marital bed, forced the door open and swiftly attacked the two with a panga killing both instantly. There is no evidence that the attack was premeditated considering that the Accused was not in prior possession of the panga that he used to slash the deceased persons. The report is that he only picked the panga from behind the door after gaining access into the house.
16. I have also taken into account the fact that the Accused was a first offender, that immediately after committing the act, he surrendered, reported and presented himself at the Police Station where he was detained. He also personally took and handed over the murder weapon to the police. He also entered into plea-bargain and pleaded guilty thus saving much judicial time.
17. I have also taken into account the age of the accused and the desire that he ought to be allowed to get back into the society to rebuild his life. From the Mental Assessment Report supplied to the Court before taking of plea, the Accused’s date of birth is stated to be 1974 which means that he is now aged about 50 years. I have also considered that the Accused, despite being admitted to bail, has been in



custody since his arrest on the date of the incident, namely, 21/11/2020, a period of about 3½ years now.

18. I have however also taken into account the aggravating circumstances. For instance, I note from the evidence that the Accused did not really find the deceased persons in express *flagrante delicto* (in the act) as both of them were said to have been fully clothed when the police came to collect the bodies. Although it is possible, it is unlikely that both the deceased persons got the opportunity to dress up before the Accused killed them. It has also been stated that all the 3 (the Accused and the deceased persons) were engaged in chan’gaa drinking for a good part of the day. It is therefore very likely that the deceased persons may have due to the effects of the alcohol simply “innocently” fell asleep on the bed without having any amorous intent. It could as well have been a case of “it is not what it looks like” and the Accused may have overreacted. Be that as it may and while it is understandable that any man would be extremely provoked to find his wife lying on their matrimonial bed together with another man, still every human being is born with the inherent ability to control his emotions and temper and to act wisely and in restraint in any situation, no matter how dire it may be.
19. It cannot be the case that the only recourse that a person aggrieved or provoked by such act as the one that happened in this case is to kill the “opponent” or the “betraying partner” or, as happened in this case, to kill both. That is law of the jungle and cannot be accepted in a civilized society such as ours. All human beings must always learn to maintain self-control, moderate their temper and exercise anger management. One cannot simply, out of anger, take the life of another, or others, and go scot-free. From the description given in the post-mortem report for each deceased, it is also clear that the assault by the Accused was very vicious and grisly to the extent that both the deceased persons died instantly. The panga cuts were more than necessary not proportionate. They were clearly intended to cause the ultimate damage – death. I also observe that the bodies were found in position which can be presumed to have caused not much threat to the Accused – Nancy was lying on the bed and Cheruiyot was sitting on a wooden log. If they resisted, then they had already been subdued.
20. Having considered all the above factors, including both Counsels’ submissions and also the objects of sentencing as set out in the *Judiciary Sentencing Guidelines* and also in *Muruatetu (supra)*, and although I appreciate that I do not have the benefit of the views of the families of the two deceased persons as the Court was informed that the families could not be traced, I agree with the Prosecution Counsel that considering the circumstances arising herein, a non-custodial sentence would not be appropriate. Two precious human lives were needlessly lost and the Court must reiterate the message that it is not acceptable to take a human life.

Final Orders

21. Having considered all the relevant principles and circumstances, I rule as follows:
 - i. The accused person is hereby sentenced to eight (8) years imprisonment on each of the two counts of manslaughter, to run concurrently.
 - ii. In taking into account the period already served in remand custody by the Accused as obligated under the proviso to section 333(2) of the *Criminal Procedure Act*, the period of imprisonment shall be computed as from the date of arrest, 21/11/2020.

DELIVERED, DATED AND SIGNED AT ELDORET THIS 7TH DAY OF JUNE 2024

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WANANDA J.R. ANURO

JUDGE



Delivered in the Presence of:

