



State v Gachie (Criminal Case 13 of 2020) [2024] KEHC 7530 (KLR) (4 June 2024) (Ruling)

Neutral citation: [2024] KEHC 7530 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 13 OF 2020
DO CHEPKWONY, J
JUNE 4, 2024**

BETWEEN

STATE PROSECUTION

AND

REGINAH WANGUI GACHIE ACCUSED

RULING

1. The accused Reginah Wangui Gachie was charged with the offence of Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) Cap 63 of the Laws of Kenya.

The particulars of the offence are that:-

“On the 15th day of March, 2020 at Kiganjo area in Thika Subcounty within Kiambu Peter Macharia Muriithi”.

2. The accused was arraigned in court on 8th September, 2021, and upon being confirmed fit, he 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 Jul, 2023 and filed on 20th September, 2023. The charge of murder was then substituted with a lesser charge of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#). On 9th May, 2024, the accused pleaded ‘Guilty’ to the offence of Manslaughter.
3. The facts of the case as stated by the Prosecution Counsel were that on the material date of 15th March, 2020 at around 12.00 – 1.00 pm, the accused was at her house together with her husband Peter Macharia Mureithi (now deceased). That the deceased started a quarrel with the accused and a fight ensued, whereby the deceased picked a knife with which he wanted to hit the accused but she overpowered him and snatched the knife from him. She then proceeded to stab the deceased on the knee and he started bleeding. On seeing this, the accused sent for the brother of the deceased, one James Nyagah who took long to come. She then decided to carry the deceased on her back and started



taking him to hospital, but on the way, they met a good samaritan, one Evanson Kamau Njau who was driving Motor Vehicle Registration Number KAW 626W White in colour. He offered to take them to Tumaini Hospital where on arrival, it rejected to treat the deceased. They then went to Thika Hospital where the deceased was taken to the casualty as the accused was left outside. Later the accused saw police officers and it was at that time she was informed that the Peter Macharia had died. The accused was arrested and escorted to the police station.

4. The body of the deceased was taken to General Kago Mortuary for preservation. The DCI officers went to the home of the accused where they recovered the knife which had been used to stab the deceased and also collected the clothes the deceased was wearing on that day, to be taken for analysis. Post mortem examination was conducted on the body of the deceased and it was established that the cause of deceased's death was exsanguination due to vascular and muscular injuries due to a penetrating sharp force trauma (stab) to the right posterior knee region. The post mortem report was prepared and produced as PExhibit 1, the government analyst report and a memo attaching items to be analysed as PExhibit 2 (a) and (b) and the knife with a plastic handle as PExhibit 3, a multicoloured dress PExhibit 4, grey shirt PExhibit 5 and a blouse with cream flowers PExhibit 6.
5. The Accused was then charged with the offence of murder which has now been substituted with a lesser charge of Manslaughter after a Plea Bargain Agreement. The Accused has pleaded guilty to the offence of Manslaughter and stated that the facts as read out are correct. The court has then proceeded to convict the accused on her own 'Plea of Guilt' for the offence of Manslaughter contrary to Section 202 of the [Penal Code](#).
6. At this state, the court is now being called upon to determine the appropriate sentence for the accused. But before doing this, the court called for a social inquiry to be conducted on the accused by the Probation and Aftercare Services Department and a pre-sentence report to be filed. The pre-sentence report was filed on 23rd May, 2024 and therein, the Probation Officer has indicated that in conducting a social inquiry it considered the accused's family background, his personal history, the circumstances of the offence, the attitude of the accused towards the offence, the view of the victim's family, the community's attitude towards the offender and the nature of the offence so as to come up with recommendations.
7. Having conducted the social inquiry on the accused, the Probation Officer concluded that he is 35 years old and a mother to two children. She stated that accused is remorseful and pleads for a community based sentence. It was also reported that the Deceased was the husband to the accused for nine years and they had lived as such together with their children . The Accused is said to be missing the deceased and highly regrets this offence.
8. According to the Probation Officer, the Accused enjoys a strong support system and confirms that she will be hosted by her family at her home in Muranga where her children are staying. On the part of the the victim's family, it was stated that the loss of the deceased was painful to them but they have healed and forgiven the accused. That they pray that the court gives the accused a lenient sentence so that she is able to take care of her children. On the part of the community and local administration, their position is that the accused does not have a criminal history and that her family has maintained healthy relations with the community. They urge that the court deals with the matter in a fair way.
9. In her recommendations, the Probation Officer has stated that the Accused is highly remorseful for the offence and prays for a second chance. That both her family and that of the deceased are ready to support the accused in her rehabilitation journey. She recommends that the Accused is suitable for a noncustodial sentence and if granted, then her office is ready offer her counselling and guidance on anger issues which was the main need that was identified.



10. The court has considered the circumstances under which the offence was committed, the information in the Plea Bargain Agreement dated 31st July, 2023 alongside that in the pre-sentence report filed on 23rd May, 2024 and the mitigation of the Accused person made by her Counsel.
11. In mitigation, counsel for the accused stated that the accused is a first offender and has never been in conflict with the law. He urged the court to consider the circumstances under which the offence was committed, which was out of provocation and the conduct of the accused after committing the offence by taking it upon herself to take the deceased to the hospital. He told court that the accused is a mother of two children who need her care, support and protection. And by entering into a plea bargain and pleading guilty to the offence of manslaughter, the accused has not wasted judicial time and therefore she prays for leniency.
12. The sentence for the offence of Manslaughter is provided for under Section 205 of the [Penal Code](#) as follows:-

“ Any person who commits the felony of manslaughter is liable imprisonment for life.
13. From this provision, the penalty to be meted out for any person found guilty for the offence of Manslaughter is life imprisonment. However, on whether or not to impose a custodial or non-custodial sentence, the following factors ought to be taken into account by the court;
 - a. Gravity of the offence
 - b. Criminal history of the offender
 - c. Character of the offender
 - d. Protection of the community
 - e. Offender’s responsibility to the third parties.
 - f. Children in conflict with the law.
14. In the [Francis Muruatetu case](#), the guidelines were amended to include:-
 - a. Age of the offender
 - b. Being a first offender
 - c. Whether the offender had pleaded guilty
 - d. Character and record of the offender
 - e. Commission of the offence in response to gender based violence
 - f. The possibility of reform and social re-adaptation of the offender
 - g. Any other factors that the court considers relevant.
15. In view of all that, the court has also taken into account the accused person’s mitigation, the findings and mitigation by the Probation Officer in the Pre-sentence report, the circumstances under which the offence was committed as revealed in the plea bargain Agreement and the act of pleading guilty to a lesser charge, this Court agrees with the recommendation by 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, and also to allow for her to take care of the children who now only have her as a sole parent.



16. Consequently, this Court proceeds to sentence the Accused person to serve three (3) years on 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, DATED AND SIGNED THIS 4TH DAY OF JUNE, 2024.

D. O. CHEPKWONY

JUDGE

