



Republic v Ruto (Criminal Case E006 of 2020) [2024] KEHC 9050 (KLR) (25 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9050 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E006 OF 2020
PN GICHOHI, J
JULY 25, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

DANCUN KIRUI RUTO ACCUSED

RULING

1. Dancun Kirui Ruto is hereafter referred to as the accused. Through a plea bargain agreement between the parties, the initial charge of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) for which he pleaded “not guilty” on 21st January 2021 was on 7th July 2024 substituted with a of Manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#).
2. The Particulars of the offence were that on 15th day of September 2020 at Silibonik in Kuresoi North sub- county within Nakuru County he unlawfully caused the death of Geoffrey Ruto.
3. The facts were that on 15th day of September 2020 at around 5.00 pm, the deceased Geoffrey Ruto who was the father of the accused herein went to a nearby house to drink changaa. He found accused was in the said house. The deceased appeared drunk and started insulting the accused calling him “Ng’etai” which is a Kipsigis word meaning “uncircumcised.” The accused person opted not to respond despite being tormented by that insult.
4. The deceased later ran around with the accused’s lamb with the intention of killing it and this annoyed the accused. This triggered a fierce fight between the deceased and the accused person and in the process, the accused picked a jembe and struck the deceased and run away. The deceased was taken to Marinduko dispensary for treatment but his health deteriorated and he died the following day.
5. The Nyumba Kumi Elders reported the matter at Kuresoi Police station and the accused person was arrested on 17th September 2020 and the weapon recovered. The deceased’s body was taken to Kericho County and Referral Hospital where the post-mortem was done . The results were that the cause of



death was severe head injury caused by a sharp object. The accused person was charged with murder which, as stated earlier herein, was reduced to manslaughter.

6. The accused person admitted that charge and the facts as read to him. A pre-sentence report called for by this court was filed on 11th June 2024 capturing important details in regard to the circumstances of the offence, the accused person's profile and his attitude to the offence. It further gave the views of the victim's family and the reaction from the community and the local Administration. It ultimately gave recommendation that the accused person be placed on probation for a period of three years to enable him reintegrate into the society.
7. In mitigation, his counsel took cue and urged the Court to adopt the Probation Officer's report. She stated that the accused is not married; has never been involved in violent activities; is a first offender, remorseful and would like to go back and help his mother who is a casual labourer raise the children following the death of his father.
8. Indeed, the prosecution confirmed that they do not have previous records for the accused and therefore opted to have him treated as a first offender.
9. This Court has considered the tragic circumstances leading to the death of the accused's father.
10. It was a clear provocation for the deceased to call his own adult son (aged 35 years) an uncircumcised person. It is worse that he did it in public. But as a show of remarkable restraint, the accused did not respond despite being tormented by the insult. It may not be known why the deceased opted throw such insult on the accused. It is however revealed in the pre-sentence report that that according to the family, the deceased and the accused had a problematic relationship where the deceased is reported to have been abusive to the accused and also the accused's property.
11. The report was that while intoxicated with illicit brew, the deceased earlier before this conflict strangled the accused's chicken which contributed to this offence.
12. It is noted that with that kind of conduct by the deceased, the accused may have withheld his anger after the deceased strangled the accused's five chicken and came to insult him in the changaa den, but he could not hold it any more when the deceased went ahead, took the accused's lamb and started running around ready to kill it hence the vicious fight between him and the deceased.
13. It is clear that for the accused to pick a jembe and hit the deceased on the head was extreme use of force intended to inflict serious pain and of course grievous injury. Indeed, the deceased succumbed to the said injuries the following day.
14. The report reveals that the accused used to rear sheep and chicken for sale but the deceased was not impressed by the business. That whenever the deceased came home intoxicated with illicit brew, he would and without permission from accused, violently grab the accused's poultry for his own consumption.
15. This kind of reaction by the accused on the material date appears to have been one of defence to his own dignity and property from the real threat caused by his father (deceased).
16. Perhaps it is those circumstances that led the family to engage in traditional reconciliation and avoid double tragedy of losing one of their own through death and the other through the criminal justice system.
17. With the accused's attitude to the offence; his remorse coupled with the fact that the entire family, both maternal and paternal, has met with clan members, forgiven accused and awaiting his traditional



cleansing ceremony according to Kalenji customs binding to all parties, it would not be in the interest of justice to send the accused person to prison.

18. He would be better off if allowed to pursue that reconciliation which will make it easy for him to re-integrate into the society. It is for those reasons that this Court is in concurrence with the Probation Officer's recommendation.
19. In conclusion, the accused person is placed on probation for a period of three (3) years.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 25TH DAY OF JULY, 2024.

PATRICIA GICHOHI

JUDGE

In the presence of:

Mr. Kihara for the State

Dancun Kirui Ruto - Accused person

Ms Otokoma holding brief for Mr Kairu Maina for Accused person

Ruto- Court Assistant

