



**Republic v Chepkwony (Criminal Case E005 of 2021)
[2024] KEHC 9478 (KLR) (24 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 9478 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL CASE E005 OF 2021**

**RL KORIR, J
JULY 24, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

RICHARD KIPKORIR CHEPKWONY ACCUSED

JUDGMENT

1. Richard Kipkorir Chepkwony (Accused) was charged with the offence of murder contrary to section 202 as read with Section 204 of the Penal Code, Cap 63 Laws of Kenya. The particulars were that on 25th day of April, 2021 at about 23.30hours at Tarakonik Centre in Kapkimolwa location within Bomet County, he murdered Koyumi Ambrose Kipngetich.
2. The Accused took plea on 6th May, 2021 and denied the charge. He was remanded in custody but subsequently granted bail on 24th November, 2021. When the case came up for trial on 14th June, 2023, defence counsel informed the court that the Accused was desirous of plea bargaining. The case was adjourned after the testimony of one witness to allow parties time to plea bargain.
3. A Plea Agreement was filed on 24th October, 2023. The court after satisfying itself of the voluntariness of the process and agreement accepted the Plea Agreement. The Accused consequently took plea on the substituted charge. He pleaded guilty to the lesser offence of manslaughter. The facts of the case are contained in the Plea Agreement and were read to the Accused by the prosecutor as follows:-

“The facts of this case are that on 25th April, 2021 the deceased Ambrose Kipngetich Koyumi together with his brother Gilbert Ruttoh and another person went to a wines and spirits shop in Toronik center in Kapkimolwa location within Bomet County. It was at night, although the exact time is not very clear since there are contradictions in the statements of the witnesses.



Later in the same night, the deceased quarreled with the accused by the name of Richard Kipkorir Chepkwony. The deceased went out of the bar and the accused followed him and stabbed him (deceased) on the chest with a knife. The deceased fell down. Those who were nearby removed his clothes and tried to administer first aid on him. They also took him to Longisa County Hospital where he was pronounced dead on arrival. The Accused surrendered himself to Kapkimolwa Police Post. The police visited the scene and they recovered the murder weapon (knife) together with the deceased's clothes. Post mortem was later carried out and the doctor formed an opinion that the cause of death was due to punctured injuries to the lungs and heart by a sharp object.”

4. The Accused accepted the facts as correct and was convicted on his own guilty plea for the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. The court directed the filing of a pre-sentence report and scheduled a sentencing hearing.
5. A pre-sentence report was filed on 31st October, 2023. The Accused was stated to be married with 3 children who were presently under the care of his wife one Mercy Sitienei. That he rarely indulged in alcohol and was generally a quiet person who kept to himself but who had a good relationship with others. The probation officer stated that the Accused admitted having descended on and killed the deceased. That he was offended by the deceased's attitude when the (deceased) blamed him for being denied the use of a water bowser during a funeral at the deceased's home. The report further states that the Accused was remorseful and regretted his actions, and had sought the forgiveness of the deceased's family who were also his relatives.
6. With respect to the Victim Impact Statement, the probation report stated that the family of the deceased and the Accused had conducted traditional reconciliation and cleansing and agreed to forgive the Accused whom they were ready to reintegrate if released by the court.
7. At the sentencing hearing on 23rd May, 2024, Mr. Ngeno learned defence counsel submitted that the Accused was remorseful and had vowed not to repeat the offence. That an argument arose leading to the incident which caused the death of the deceased and that the killing was not planned but was spontaneous. Counsel prayed for a non-custodial sentence.
8. On his part, the learned prosecution counsel Mr. Njeru told the court that the Accused was a first offender. He urged the court to take notice that alcoholism was rife and had led to many similar offences in the locality. He urged the court to take into consideration that though the Accused had saved judicial time and State resources, a life was lost. He prayed for a custodial sentence, however lenient.
9. Sentencing serves multiple purposes which are set out in the Judiciary Sentencing Guidelines 2023 as follows:-
 - i. Retribution.
 - ii. Deterrence.
 - iii. Rehabilitation.
 - iv. Restorative justice.
 - v. Community Protection.
 - vi. Denunciation.
 - vii. Reconciliation.



- viii. Reintegration.
10. The court in considering an appropriate sentence is required to consider the seriousness of the offence aggravating and mitigating circumstances. The Supreme Court in the case of Francis Karioko Muruatetu & another v Republic [2017] eKLR set out the following guidelines with respect to factors to be considered while undertaking the judicial task of sentencing an offender:-
- “In re-hearing sentence for the charge of murder, both aggravating and mitigating factors such as the following, will guide the court;
- (a) Age of the offender;
 - (b) Being a first offender;
 - (c) Whether the offender pleaded guilty;
 - (d) Character and record of the offender;
 - (e) Commission of the offence in response to gender-based violence;
 - (f) The manner in which the offence was committed on the victim;
 - (g) The physical and psychological effect of the offence on the victim’s family;
 - (h) Remorsefulness of the offender;
 - (i) The possibility of reform and social re-adaptation of the offender;
 - (j) Any other factor that the court considers relevant.....”
11. In this case, I have taken into consideration the above factors. The Accused was aged 46 years and prior to the incident was a law abiding citizen. He stabbed the deceased who was a relative after an argument in a wine and spirits shop.
12. There was however no logical explanation as to why he would be carrying a knife with which he stabbed the deceased. It is clear from the statement of facts that there was no evidence of immediate provocation. What the action of stabbing the deceased shows is a devaluation of human life which the law abhors.
13. I have taken into consideration that there were attempts at traditional reconciliation and cleansing undertaken by the respective families of the Accused and the Accused. Their actions are to be lauded as they signal reconciliation and closure which also brings harmony and peace within the affected families and the community.
14. I have considered the circumstances of this case and also the fact that the Accused was a first offender and had been in pre-trial custody since 4th May, 2021 despite having been granted bond on 24th November, 2021. I am however not persuaded that he deserved a non-custodial sentence. The sentence must reflect the seriousness of the offence.
15. In the end, the Accused shall serve 7 years’ imprisonment. The sentence is deemed to run from 4th May, 2021 being the date of arrest and pre-trial custody.

JUDGEMENT DELIVERED, DATED AND SIGNED THIS 24TH DAY OF JULY, 2024.

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R. LAGAT-KORIR



JUDGE

Judgement delivered in open court in the presence of Accused Mr. Njeru for Prosecution and Siele (Court Assistant).

