



**Republic v Rono (Criminal Appeal E013 of 2022)
[2024] KEHC 9771 (KLR) (24 July 2024) (Judgment)**

Neutral citation: [2024] KEHC 9771 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CRIMINAL APPEAL E013 OF 2022**

RL KORIR, J

JULY 24, 2024

BETWEEN

REPUBLIC PROSECUTION

AND

AMOS KIPROTICH RONO ACCUSED

JUDGMENT

1. Amos Kiprotich Rono (Accused) was charged with the offence of murder Contrary to Section 203 as read with Section 204 of the *Penal code*. He is alleged to have murdered one Emmanuel Cheruiyot Chepkwony on 16th May, 2022 at Kiptenden Village Ndanai Location in Sotik Sub-County within Bomet County.
2. The Accused was arraigned on 28th June, 2022. He denied the charge and a plea of not guilty was entered. His counsel Mr. Kadet promptly made an application for the Accused to be released on bail pending trial. The application was opposed by the Prosecution on grounds that the Accused had another on-going criminal charge of attempted murder and was therefore a flight risk. In a reasoned Ruling dated 28th September, 2022, this court declined to grant the Accused bail.
3. Subsequently on 21st February, 2023 before trial commenced, the parties informed the court that they were engaged in plea negotiation. A Plea Agreement dated 24th October, 2023 was finally filed in court.
4. On 24th October, 2023 the court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he executed the agreement voluntarily.
5. The Accused took plea on the substituted charge and pleaded guilty to the charge of manslaughter contrary to Section 205 of the *Penal Code*.



6. The Facts of the case as captured in the Plea Agreement were read by the Prosecutor as follows:-

“The facts surrounding this case are that on 16th July, 2022 at about 1822 hours at Kiptenden village, Ndanai Location in Sotik Sub-County within Bomet County, the deceased Emmanuel Cheruiyot Chepkwony together with his brother Kevin Kiplangat Chepkwony, Collins Kiru, Denis Roni and others friends were enjoying the local brew (chang’aa) at Faith Chebet’s home. The Accused Amos Kiprotich Rono who is a paternal uncle of the deceased was also in the vicinity.

An argument erupted between the deceased and the Accused, the argument escalated into a fight. The Accused then took a knife and stabbed the deceased on the left side of the chest. Kevin tried to intervene but the Accused stabbed him too. The Accused also stabbed Collins. Both the deceased and Kevin were rushed to Ndanai Sub-County hospital by members of the public. The deceased was pronounced dead on arrival while Kevin was discharged while in stable condition.

The Accused was arrested and was taken to Ndanai Police Station by members of the public. His murder weapon a pen knife was recovered and was handed over to the police. The Accused was taken for mental assessment at Kapkatet Sub-County hospital and the mental status report indicated that he is fit to stand trial.

The post mortem was carried out at Kaplong hospital morgue and the doctor formed an opinion that the deceased had died as a result of severe chest injury due to assault. The deceased’s samples together with the pen knife and the Accused’s and deceased’s clothes were taken to the government chemist for analysis. The report from the government analyst is yet to be given.”

7. The Accused accepted the facts as true and the court after satisfying itself that the facts disclosed the offence convicted the Accused on his guilty plea for the offence of manslaughter.
8. The court further directed the probation office to file a pre-sentence Probation Officer’s Report and scheduled a sentencing hearing.
9. At the sentencing hearing on 23rd May, 2024, learned defence counsel Mr. Kadet submitted that he had filed submissions in mitigation which he asked to highlight for the benefit of the Accused. In submissions dated 21st May, 2024, counsel submitted that the Accused surrendered himself to the police and co-operated in the investigations. That he saved judicial time by plea bargaining.
10. Counsel also submitted that the Accused had no prior criminal record and the family had no criminality and was willing to reach out to the deceased family for reconciliation. Counsel prayed that the Accused be granted a non-custodial sentence because he was his family’s breadwinner, a first offender and had reformed in the time he had spent in pre-trial custody; that he had gotten saved and acquired skills in carpentry. He relied on *R v Ezekiel Lokatukon* 2021eKLR in which the Accused was sentenced to serve probation. Counsel urged the court to be guided by the guidelines stated by the Supreme Court in the Muruatetu case.
11. On his part Mr. Njeru the learned Prosecution counsel submitted that the Accused was a first offender and had saved judicial time and state resources by pleading guilty. That the court may also consider the two years that the Accused had been in pre-trial custody. He however urged the court to mete out a custodial sentence.



12. Counsel recounted that the offence took place while both the Accused and deceased were drunk and urged the court to note that cases where people abused alcohol and thereafter committed serious offences were rampant. He urged the court to give a custodial sentence as a deterrence. He submitted that the offence was aggravated as the Accused had also attacked his nephew and faced an attempted murder charge which was later withdrawn.
13. A pre-sentence probation officer's report was filed on 31st October, 2023. The probation officer reported that a home inquiry visit revealed that the Accused came from a large and cohesive polygamous family whose patriarch had large pieces of land. That the Accused dropped out of school in form two allegedly for lack of fees and worked as a casual labourer. That the family vouched for him as a non-violent quiet person but who over indulged in illicit alcohol and frequented chang'aa dens together with the deceased. The probation officer also reported that the family of the victim though still grieving, was open to reconciliation with the Accused's family but that the reconciliation was yet to materialize.
14. Sentencing serves multiple objectives which are clearly 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.
15. A sentence must be proportional to the seriousness of the offence. In this case, the Accused has been convicted of manslaughter, a serious offence. I have taken into consideration that he stabbed two people on the material date which was an aggravating circumstance. I have taken into consideration the Accused's mitigation that he was a young man yet to marry. The probation officer stated that he was 24 years old. I have also taken into consideration that he was a first offender and was hitherto not given to criminality. He also saved judicial time by plea bargaining.
16. The circumstances of the case have shown that the Accused was a casual labourer and his earnings supported his alcoholism which predisposed him to the offence. It is my considered view that the accused was not suitable for a non-custodial sentence, he would benefit from rehabilitation in prison.
17. The Accused has also been in custody since May 2022 a period of two years which I have taken into consideration in coming up with the final sentence as required by section 333(2) of the [Criminal Procedure Code](#). The Accused shall serve seven (7) years imprisonment from date of sentence. This lenient sentence shall afford the Accused an opportunity to seek reconciliation with the victims of the offence.

Orders accordingly.

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

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R. LAGAT-KORIR

JUDGE

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

