



**Republic v RMG (Criminal Case 22 of 2018) [2024] KEHC 9727 (KLR) (22 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 9727 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAJIADO  
CRIMINAL CASE 22 OF 2018  
SN MUTUKU, J  
JULY 22, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**RMG ..... SUBJECT**

**SENTENCE**

1. R. M. G, the Subject, was charged with murder contrary to section 203 read with section 204 of the Penal Code. The particulars of the offence are that on the 30<sup>th</sup> November 2018, at Kiserian Township in Kajiado North Sub-County within Kajiado County, he murdered Angel Wangui. He pleaded not guilty to the charge. Eight (8) witnesses testified for the prosecution. After subjecting that evidence to scrutiny, this court found that the offence proved was not murder but manslaughter. The court found the Subject responsible for the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code.
2. This court was told in mitigation that the Subject was a form two student aged 17 years at the time of committing this offence; that he is a first offender; that he has shown remorse and he regrets committing the offence. It was submitted that he has reformed and has learned lessons of life while in custody; that he is the only son of his parents and that his mother passed after the accused was arrested. Counsel asked the court to take into consideration of these factors in passing the sentence.
3. The prosecution counsel submitted the Subject is a first offender and that a young life was lost and the family of the deceased lost the future of their child. Counsel urged that the court passes a custodial sentence.
4. This court called for a pre-sentence report which was filed on 11<sup>th</sup> June 2024. I have read the report. It places the age of the Subject currently at 23 years. This places his age at the time of committing this offence at 17 years. Under section 2 of the Children’s Act of 2022, a child is defined as “‘child’ means an



individual who has not attained the age of eighteen years”. Robin was aged 17 years when he committed this offence. He was a child as defined under this Act.

5. Section 221 (3) of the *Children’s Act* provides that:

The provisions of this Part shall apply to a person who reaches the age of eighteen years before proceedings instituted against them pursuant to the provisions of this Act have been concluded.

6. This case was brought to court in December of 2018. It has lasted six years largely due to the change of judges handling the matter, among other reasons recorded in the file. I was the third judge to try this matter.

7. The pre-sentence report is not favourable to the Subject. His father A G is alive, but his mother Irene Wamaitha passed on in 2019 while these proceedings were going on. His father is not willing to live with him and prefers if he relocates to Kiambu to live with his paternal aunt’s homestead. The report shows that the father is not close to the Subject.

8. His education history is checkered. He has been changing schools since primary school to secondary and the report shows that his parents were not in touch with him and lacked control over him. His lifestyle and interactions were influenced by peers leading to overindulgence in drugs and alcohol which he abused. The report shows that he admitted committing the offence which he says he could not remember committing because he was drunk and had smoked bhang. He stated that he intended to dispose the remains of the victim.

9. The report concludes by recommending that Subject’s home environment might not be conducive for his rehabilitation and therefore he was not suitable for non-custodial sentence. The report recommended an alternative sentence.

10. The sentence for manslaughter is provided under section 205 of the *Penal Code*, which provides as follows:

Any person who commits the felony of manslaughter is liable to imprisonment for life.

11. The law as shown above commands this court to treat the Subject as a child because when he committed this offence, he was under the age of majority. Part XV (15) of the *Children’s Act* deals with Children in conflict with the law. Section 239 (1) provides methods of dealing with children in conflict with the law. This section provides different methods of dealing with children who come into conflict with the law. Given that the pre-sentence report does not recommend a probation order, this court has to come up with another appropriate method as provided under the above section.

12. I have considered that life of a young innocent child was cut short senselessly by the Subject. It was a gruesome killing. That was not enough, the body of the victim was dismembered and the remains stuffed in a bag. Now this court knows that the intention was to dispose of the remains.

13. This is traumatic to the family and they will never heal. The subject must be made aware of the consequences of what he did and he must take responsibility for his actions under the law. I am inclined to utilize any of the following methods provided under the Children’s Act section 239:

(h) place the child under the care of a qualified counsellor or psychologist;

(i) order that the child be placed in an educational institution or vocational training programme;

(j) order that the child be placed in a probation hostel under the provisions of the *Probation of Offenders Act*.



14. To enable this court to choose an appropriate sentence, this court requires the services of a Probation Officer to identify a suitable institution or vocational training programme or Probation Hostel and report back to court. At age 23, the options of where to place the Subject may be limited but that can only be determined after a report is availed to that effect.
15. The Subject shall remain in custody to await this report to aid the court in arriving at an appropriate method as the law dictates. This matter shall be mentioned on an appropriate date as the record will show. Orders accordingly.

**DATED, SIGNED AND DELIVERED THIS 22<sup>ND</sup> JULY 2024.**

**S. N. MUTUKU**

**JUDGE**

