



**Republic v Chepngeno (Criminal Case E046 of 2022)
[2024] KEHC 8424 (KLR) (10 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 8424 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E046 OF 2022
SM MOHOCHI, J
JULY 10, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOYLINE CHEPNGENO ACCUSED

SENTENCE

1. Joyline Chepngeno, you pleaded guilty to the offence of manslaughter on the 13th May 2024 and this Court convicted you awaiting sentence.

Analysis and Determination.

2. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; this Court has considered the full circumstances of the offence which is contained in the Facts; The fight on the fateful night was between the convict, his co-accused and a 3rd party and the deceased intervened by a good Samaritan only to be attacked and fatally injured.
3. The *Sentencing Policy Guidelines* (2023) informs sentencing in Kenya to achieve proportionality, Equality, Uniformity, Parity, Consistency, Impartiality, Accountability/Transparency and Inclusiveness.
4. Sentencing is a discretion of the trial Court. In *Bernard Kimani Gacheru v Republic* (2002) eKLR, the Court of Appeal stated that:-

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial Court. Similarly, sentence must depend on the facts of each case. On appeal the appellate Court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial Court overlooked some material factor or took into account some wrong material,



or acted on a wrong principle. Even if, the appellate Court feels that the sentence is heavy and that the appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial Court on sentence unless, anyone of the matters already stated is shown to exist.

5. This Court is alive to the prime objectives of the criminal law, which is imposition of an appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of the crime and the manner in which the crime is done and that there is no straightjacket formula for sentencing an accused on proof of crime.
6. The principle of proportionality is grounded within the concept of just deserts and is embraced by common law. In *Hoare v The Queen* (1989) 167 CLR 348), it was stated that;

“a basic principle in sentencing law is that a sentence of imprisonment imposed by the Court should never exceed that which can be justified as appropriate or proportionate to the gravity of the crime considered in light of its objective circumstances”.
7. What sentence would meet the ends of justice? depends on the peculiar facts and circumstances of each case and the Court must keep the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances close in mind. (See *Charles Ndirangu Kibue v Republic* [2016] eKLR). Further, the Court ought to bear in mind the obligation imposed on it by the Judiciary Sentencing Policy Guidelines to take into account the aggravating and mitigating circumstances and their effects on the sentence in determining the most suitable sentence.
8. The applicable law on sentence for the offence of manslaughter is found under the provisions of Section 205 of the *Penal Code* which reads as follows;

‘Any person who commits the felony of manslaughter is liable to imprisonment for life’
9. The section provides for the maximum sentence, that is life imprisonment; this Court has taken into consideration the aggravating circumstances in that, the convict used a deadly weapon namely an axe in committing the offence; but the facts reveal that the killing was not premeditated; the accused in self defence having been attacked by her estranged husband of six years she attacked the deceased with a panga cutting him on the head and legs and also hitting him with a Rungu. The Convict thereafter went back to her house promising to surrender in the morning to the police which she did;
10. The mitigating factors taken into consideration by this Court are that the accused readily pleaded guilty and thus saved on judicial time; also taken into consideration are the personal circumstances of the accused that she has also expressed her remorse and is deemed to be a first offender;
11. This Court is obliged to consider the Offender’s responsibility to third parties to avoid a custodial sentence unduly prejudicing others, particularly vulnerable persons who depend on them, in this instance the accused is a 35 years old single mother of five (5) children who have not had a stable home or a guardian since the arrest and arraignment of the accused and they are now scattered amongst various relatives, the whereabouts of the 1st born daughter remains unknown.
12. The Court is of the view that a non-custodial sentence shall offer the convict an opportunity to take care of her minor children and that the convict should be given a chance to serve a non-custodial sentence. I noted that the convict indicated to the Probation Officer that she will be willing to serve a Probation term. In the circumstances,



13. I Hereby sentence the convict to a five (5) years Sentence with the Term served in remand custody being the custodial sentence and a probation term of three (3) years from the date of delivery of this ruling. During this period, she shall be under the Supervision of a Probation Officer Nakuru County. She is cautioned to adhere to the following terms:

- i. The Appellant should observe the following
 - a. The Appellant is warned that Probation sentence is not an acquittal or discharge but a legitimate punishment and therefore she should be careful to diligently serve the sentence as required by the Court and probation.
 - b. She will obey the Probation Officer supervising her and adhere to all the conditions or terms set as part of that supervision.
 - c. She should be of good behavior and not commit any penal offence during the pendency of her sentence.
- ii. The Appellant is warned that failure to abide by ANY of the terms under 1) above will result in the Appellant's arrest and committal to an imprisonment term.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 10TH DAY OF JULY 2024.

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MOHOCHI S.M.

JUDGE

