



Republic v Joseph (Criminal Case 011 of 2020) [2024] KEHC 9728 (KLR) (10 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9728 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL CASE 011 OF 2020
SN MUTUKU, J
JULY 10, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

JEREMIAH JOSEPH ACCUSED

RULING

1. Jeremiah Joseph, the accused, was initially charged with murder contrary to section 203 read with section 204 of the *Penal Code*. The particulars of the charge are that on the night of 25th May 2020, at Kimana area in Loitoktok Sub-County within Kajiado County he murdered Musa Mbok.
2. The accused pleaded not guilty to this charge.
3. The matter was set down for hearing and seven (7) witnesses for the prosecution have testified. Before the prosecution finalized presenting its case, the prosecution informed the court on 26th January 2023 that it was willing to offer the defence a plea bargaining agreement because the matter meets the threshold of such an agreement. The defence was agreeable to the offer.
4. On 25th January 2024, one year later, the court commenced plea bargaining proceedings. A charge of manslaughter contrary to section 202 read with section 205 of the *Penal Code* was presented to court and read to the accused and all the particulars explained to him. He pleaded guilty to manslaughter and the court entered a plea of guilty.
5. The prosecutor presented facts of the case that show that on the night of 25th May 2020, at Kimana Area in Loitoktok Sub-County Kajiado County, the accused and the deceased got into an argument about the accused chopping large vegetables. A fight broke out between them and the accused stabbed the deceased on his chest. The accused went to seek help but by the time help arrived, the deceased was found lying on the ground unresponsive.



6. The matter was reported to the police. They arrived at the scene and confirmed that the deceased has succumbed to his injuries. His body was transferred to the mortuary at Loitoktok Sub-County Mortuary. The accused was arrested and taken to the police station where murder charges were preferred against him.
7. The post mortem on the body of the deceased revealed that the deceased had died of excessive bleeding and collapsed lungs due to penetrating chest injury. The post mortem report was produced in evidence as Ex. 2.
8. The accused confirmed that the facts as presented were correct.
9. The court found and convicted him on his own plea of guilty for the offence of manslaughter.
10. In mitigation before sentence, Mr. Nairi, learned counsel representing the accused, submitted that the accused was a first offender; that he was remorseful and regretted the incident of death of his colleague at a farm in Loitoktok; that the deceased is aged 33 years and his life was just taking off at the time this incident occurred; that he is single and was preparing to get married the same month this incident occurred; that he has one sibling, an older brother and that their mother passed on in 2015.
11. Counsel submitted, further, that his father is elderly; that his older brother has moved to Dar es Salaam in search of greener pastures and that the accused is the only one who takes care of their elderly and sickly father and that the accused suffers from hypertension and is undergoing treatment. Counsel asked the court to consider the actions of the accused in seeking help after realizing that the deceased was injured; that the accused did not run away.
12. Counsel asked the court for leniency and for non-custodial sentence for the accused.
13. This court called for a pre-sentence report which was filed on 6th June 2024. I have read the report. It reveals that the accused was born in 1989 and that he is a Tanzanian national. The report states that it would be difficult to supervise the accused if he is placed on probation because of his nationality.
14. The circumstances of this case are unfortunate. The accused and deceased fought over a small misunderstanding caused by the deceased accusing the accused of cutting big pieces of vegetables. This misunderstanding led to a fight and stabbing of the deceased.
15. I have given this matter careful consideration. I have noted that judicial time was spent taking evidence before parties turned to an agreement on plea bargain. Given the circumstances revealed by the report filed in this matter, it is my considered view that it will not be convenient to place the accused on probation due to the difficulties on supervision.
16. For this reason, I hereby sentence the accused to serve two years imprisonment for the offence of manslaughter. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 10TH JULY 2024.

S. N. MUTUKU

JUDGE

2

