



**Republic v Kibet (Criminal Case E015 of 2022)
[2024] KEHC 8453 (KLR) (10 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 8453 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL CASE E015 OF 2022
RN NYAKUNDI, J
JULY 10, 2024**

BETWEEN

RPUBLIC PROSECUTION

AND

BRANTON KIBET ACCUSED

SENTENCE

1. The accused person was convicted on the charge of murder contrary to section 203 as read with Section 204 of the *Penal Code*. The circumstances of the offence are as captured in the main judgment of this case. However, a brief recap for purposes of sentencing the convict remain so central even at this stage of the proceedings.
2. The key pointers leading to the evidence and conviction of the offender are to the effect that on the material day, the 14th April, 2022, at Strobag in Ainabkoi sub-county he unlawfully killed Mathew Kiprono Kirop. The deceased apparently sustained injuries to the chest and the 6th Interestal Space. During the postmortem examination, Dr. Keitany confirmed that the deceased cause of death was Cardiac Tamponade due to Massive Hemopericardimy due to stab injury to chest and heart due to assault.
3. First and foremost, the convict pleaded guilty to offence of Manslaughter contrary to Section 202 of the *Penal Code* whose maximum sentence is prescribed by the legislature in Section 205 as life imprisonment. The guidelines in sentencing the convict, the guidelines in the case of *Francis Muruatetu v Republic* 2017 eKLR are still relevant to the circumstance of this case. The applicable factors include inter-alia:
 - 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. Remorsefulness of the offender
 - g. The possibility of reform and social re-adaptation of the offender
 - h. Any other factor that the court considers relevant.
4. Perhaps it is also important for trial courts to keep recalling the principles in the [2023 Judiciary of Kenya Sentencing Policy Guidelines](#) which expressly provides as follows:
- That sentences are imposed to meet the following objectives:
- a. Retribution: To punish the offender for his/her criminal conduct in a just manner.
 - b. Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 - c. Rehabilitation: to enable the offender reform from his criminal disposition and become a law-abiding citizen.
 - d. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.
 - e. Community protection: to protect the community by incapacitating the offender.
 - f. Denunciation: To communicate the community's condemnation of the criminal conduct."
5. There is also Art 26 of the [constitution](#) which states that every person has the right to life. That a person shall not be deprived of life intentionally except to the extent authorized by the [constitution](#) or other written law. The distinguishing feature in this matter is that the deceased is also recognized under the [constitution](#) as falling within the class of vulnerable members of our society. What was captured in the plea agreement is that the convict and the deceased on the material day happened to be in the same bar having alcoholic drinks. In the course of the social evening, a conflict arose between the two in which the deceased was stabbed by the convict. The matter was brought to the attention of the police who in turn effected an arrest and subsequently an indictment was initiated for the offence of murder by the state. In the course of the trial the defence filed a motion to the state seeking leave for the convict to enter a plea of guilty for the lesser charge of manslaughter. That is the offence which subsequently the convict was appropriately convicted upon admission of the elements of the offence.
6. As for this case the list on mitigation is too narrow being outweighed by the aggravating factors. When handing down the sentence for the convict, the sentence I will impose reflects the gravity of the crime of Manslaughter involving as it does the loss of a human life. In this respect, the convict is sentenced to 7 years imprisonment taking into account the provisions of Section 333(2) of the [Criminal Procedure Code](#) on pretrial detention as proven by the record that he was arraigned in court on the 10th May, 2022. The credit period has already been discounted in favour of the convict in this final sentencing verdict.
7. It is ordered.

DATED AND SIGNED AT ELDORET THIS 10TH DAY OF JULY, 2024



In the Presence of
M/s Oburu for the Accused
Mr. Mugun for the State
Accused

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R. NYAKUNDI
JUDGE

