



REPUBLIC OF KENYA



**Republic v Langat (Criminal Case E029 of 2021)  
[2024] KEHC 7896 (KLR) (2 July 2024) (Sentence)**

Neutral citation: [2024] KEHC 7896 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE E029 OF 2021**

**PN GICHOHI, J**

**JULY 2, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**NICHOLAS KIMUTAI LANGAT ..... ACCUSED**

**SENTENCE**

1. Nicholas Kimutai Langat (accused) was charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence were that on the 15<sup>th</sup> of June 2021 around 8.30 pm at Kasarani village , Olunguruone in Kuresoi South sub-county within Nakuru County, murdered Wesley Cheruiyot.
2. When the charge and particulars thereof were read to him on 5<sup>th</sup> July 2021, he responded:-  
  
“I killed but I did not have intention kill. They came and knocked the door. I opened the door and they entered. They flashed the house using torches.  
  
I asked them what they were doing and they started beating me. One threw me down and there was a knife there. I woke up with the knife and stabbed. He left me and walked out. I did not intend to kill.”
3. In the circumstances, a plea of “Not Guilty” was entered. The matter was to proceed for full hearing and according to the information presented before Court, the Prosecution was to call a total of nine (9) witnesses.
4. However, parties entered into a plea bargain which they signed on 12<sup>th</sup> March 2024 where the charge was reduced to manslaughter contrary to Section 202 as read with Section 205 of the *Penal Code*. The particulars of the offence were that on the 15<sup>th</sup> of June 2021 at Kasarani village , Olunguruone in Kuresoi South sub-county within Nakuru County unlawfully caused the death of Wesley Cheruiyot.



5. The facts were that on 15<sup>th</sup> day of June 2021 at around 9.30 pm, in Olenguruone township, a minor (girl) was reported missing. The minor's father (Joseph Kirui) received that report from his wife. Later, the couple was informed that the minor had been spotted while in company of the accused at Kasarani area within Kuresoi area and it was suspected that the accused was staying with her.
6. One Geoffrey Kirui passed this information to Felix Kipkurui Langat, Reuben Yegon and the deceased ( Wesley Cheruiyot). The four of them were members of Nyumba Kumi.
7. It is then that Geoffrey Kirui, Felix Kipkurui Langat and Reuben Yegon decided to go to the accused's house and search for the minor. They found the accused in his house. They searched for the minor but she was not there. They interrogated the accused and he confessed knowing where the minor was but declined to disclose where she was. They arrested him with a view to taking him to the Police Station to report the matter.
8. The deceased then arrived and after interrogating the accused, he realised that they were heading nowhere with the accused. The deceased asked the accused to give him his hand so as to tie him and escort him to the Police Station. Without warning, the accused drew a knife and stabbed the deceased on the neck.
9. Geoffrey Kirui, Felix Kipkurui Langat and Reuben Yegon managed to subdue the accused, tied him on both legs and hands and took him to Olenguruone Police Station as the deceased was rushed to hospital. The deceased died as he was being transferred to Nakuru Provincial General Hospital. The body was taken to Olenguruone Hospital Mortuary.
10. The accused was re-arrested by DCI Officers from Kuresoi and investigations commenced. On the same day, they recovered the knife used to stab the deceased.
11. Post-Mortem carried out on 16<sup>th</sup> June 2021 on the body of the deceased revealed that the cause of death was haemorrhagic shock due to penetrating sharp blade trauma to the thoracic aorta. The accused person was taken for mental assessment and arraigned in court. The accused person admitted the charge and particulars of the charge of manslaughter and the facts as narrated. A "Plea of Guilty" was entered.
12. Mr. Kihara urged the Court to treat the accused as a first offender but consider a deterrent sentence on the grounds that cases of manslaughter are prevalent.
13. In mitigation, Ms Githae for the accused person urged the Court to consider that this incident occurred at night and in the accused's house. That the attacks were on the allegation that he harboured the minor but the facts as narrated exonerated him since the minor was not found in the accused's house.
14. She further told the Court that though the knife used to stab the deceased was not produced as an exhibit, they acknowledge the post-mortem report showing that the deceased sustained a stab wound. Therefore, Counsel went on, the weapon and force used was in self-defence by accused person against the four men.
15. She further stated that though granted bond terms, the accused person had been unable to raise it due to his poor background. That he was the sole bread winner for the family including his parents and that since he was placed in custody, he has suffered pneumonia that has not been contained despite the fact that he is on treatment. She therefore urged the Court to consider a sentence that would enable him seek medical attention.
16. In the detailed pre-sentence report called for by this Court and filed on 25<sup>th</sup> April 2024, the Probation Officer Salim A. G, states that he interviewed the accused person, the chief Tegat location and the



victim's family and established that the accused is aged 28 years old and is a first offender who takes responsibility for his own actions. That the accused and the victim come from the same area and that the accused neither planned nor harboured intention to cause such harm and therefore, the accused sought leniency.

17. He further states that the two families have embraced traditional reconciliation which has been confirmed by the local authority and that the said reconciliation is binding to the two parties and it ensures smooth reintegration of the offender back to the two community.
18. For those reasons, he recommends that the accused person be accorded a non- custodial sentence preferably Probation Orders for a maximum of three years where the accused would be guided on smooth re-integration.
19. This Court has considered the facts before this Court, the pre-sentence report and the mitigation. It is clear that the accused person was a member of the Nyumba Kumi for the area and so were the men attempting to arrest him on the material night. The alleged missing minor was not found in the accused's house despite the search on that material night. It was not stated what became of the child and whether she was traced or not.
20. There was no mention as to whether those arresting him were armed or not. There was no medical evidence that the accused was beaten before or during arrest as alleged. However, it has been his consistent stand that he was beaten and that he stabbed the deceased with a knife but he did not intend to kill him.
21. This was an unfortunate incident. The report of a missing child was not well handled. Perhaps life would not have been lost if the deceased and his colleagues opted to escalate the matter to the police before opting to arrest and attempting to tie the accused person in the circumstances.
22. However, the violence meted on the deceased through a stab wound using a knife was extreme and fatal. It is unfortunate that the deceased lost his life in such circumstances.
23. Those circumstances may have been the reason why the family of the victim and that of the deceased chose to embrace their traditional reconciliation method and which was confirmed by the local administration. They all confirm that the agreement is binding on both parties. Though the details of that agreement have not been revealed, this Court is satisfied that a custodial sentence is not appropriate.
24. The recommendation by the probation officer is reasonable and there is no reason to depart from it. The accused should be facilitated to re-integrate into the community through that spirit of reconciliation.
25. In conclusion, the accused person is placed on probation for a period of three (3) years.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 2<sup>ND</sup> DAY OF JULY, 2024.**

**PATRICIA GICHOHI**

**JUDGE**

**In the presence of:**

Mr. Kihara for the State

Nicholus Kimutai Langat- Accused person

Ms Githae for Accused person



Ruto, Court Assistant

