



**Republic v Namisoo (Criminal Case E007 of 2024)  
[2024] KEHC 10744 (KLR) (9 August 2024) (Judgment)**

Neutral citation: [2024] KEHC 10744 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUNGOMA  
CRIMINAL CASE E007 OF 2024**

**REA OUGO, J  
AUGUST 9, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**REBECCA NAMISOO ..... ACCUSED**

**JUDGMENT**

1. Rebecca Namisoo hereinafter to as the accused person was charged with the offence of murder contrary to section 203 as read with section 205 of the Penal Code. On 21.5.2024 after a plea bargain agreement, the accused person pleaded guilty to a charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. This court convicted her on her plea of guilty after she admitted that the facts read to her were true and that the account given by the prosecution is what happened.
2. The facts in brief are as follows; on the 3.1. 2024 the accused was in the same compound as one Naomi Namabaka her relative. They quarrelled after which the accused threw Naomi sandals in a pit latrine and the accused left agitated with her daughter Rhoda Nambengele the deceased. On 5.1.2024 one Peter Wechuli the accused’s uncle was informed that the accused person had told his wife that her child Rhoda had succumbed to injuries sustained from a motorcycle accident and had been buried at her biological father’s home. Peter proceeded to a nearby home where a funeral was underway and the accused person was present at the said funeral. He required from the accused on the whereabouts of the deceased and the accused maintained that the daughter was alive but she could not state the exact location of her daughter. Together with other family members, they decided to escort the accused to the police station, and on the way she disclosed to them that she had thrown her child in the river. They proceeded to Navakholo police post where the accused was detained for further investigations into her allegations. On 6.1.2024 one Eratus Wanjala a village elder received a phone call from one of his neighbours informing him that the remains of a child had been seen and sighted at Kitinda village. He proceeded to the scene and confirmed the information to be true and informed the police. P. C Tabitha Keiyo the investigation officer( I/O) visited the scene in the company of crime scene investigations and



amongst other investigations photographs were taken at the scene. The I/O escorted the deceased to Bungoma Referral Hospital. The I/O rearrested the accused person from Navakholo police post and escorted her to Bungoma police station. On 22/1/2024 a post mortem was done at Bungoma District Hospital by Doctor Elly Kosgei who confirmed that the deceased died from drowning.

3. After conviction I sought a pre-sentence on the accused person. A report dated 18.6.2024 was tendered in court. The report states as follows; the accused is 27 years old. She has been in remand since 29.01.2024. She is the firstborn in her family. She rarely stays in one place for long and she spends most of her time in sugarcane plantations and only appears in public during funeral ceremonies. She has 3 children the first two are staying with their fathers. Rhoda was 14 months old when she died. During the interview, she kept on fidgeting even though they had created a very friendly environment for her. She was also incoherent and largely imperceptible. She was interviewed after a week and she was composed. According to the psychiatric nurse in charge of Bungoma Referral Hospital, the accused probably suffered from Bipolar disorder and is mentally stable most of the time, and her temporary insanity is triggered by any factor that stresses her beyond her control. At home, the accused is said to have bad relations with her mother and siblings. According to the probation officer the accused's criminogenic needs borders around poor upbringing, lack of parental control, low level of education, and probably mental instability may have been responsible for her action. She does not seem to understand the gravity of the offense but she pleads to be granted a non-custodial sentence to enable her to get a job and be independent. Her family describes the accused as an urchin who has been beyond the mother's control. The family is divided about her return home according to her uncle they are ready to accept her back and cleanse her and her mother on the other hand expresses fear that the offender may harm her if she is released immediately. The victim was a 14-month-old baby girl. She was the 3<sup>rd</sup> born child of the offender. Her father was not willing to be interviewed and he appeared drunk. Her grandfather did not want any dealings with the accused person. The local administration and neighbors affirmed that the offender has a persistent pattern of mental instability. The offender is not hostile. They have attributed her criminal behaviour to a lack of parental care and impaired judgment. They are not opposed to her release on community rehabilitation although the area assistant chief was concerned about her inability to stay in one place. The probation further states the offender has a history of moving from one place to another and supervising her on a non-custodial sentence may be futile. The secondary victims have nothing to against the offender so long as she does not go back to their home in the event she is released from custody. The accused's mental instability is due to bipolar disorder and can be managed if she avoids the triggers. She lacks family acceptance and given the nature of the offence, the home environment which is hostile the accused is not suitable for a non-custodial sentence due to lack of a fixed place of abode and recommend that she be sentenced otherwise.
4. Mitigation. Mr. Masiga submitted as follows; the accused regrets her action and is remorseful. She is a first offender and is a family person. She is the sole breadwinner. She has entered a plea bargain agreement and saved the court's time and she should be rewarded with mercy. She has reconciled with her family and the family of the victim who have forgiven her. She seeks a non-custodial sentence where she can be reintegrated into her family, her family is willing to do so as they understand the root cause of her problem. She seeks leniency.
5. The above mitigation does not tally with the pre-sentence report. Her own family is not willing to accept aside.
6. Manslaughter is a serious offence and the penalty provided in law is life imprisonment. In sentencing, the accused I am guided by the guidelines on sentencing on a plea bargain of a person who has entered a plea bargain. The accused is a first offender. The accused chose to unlawfully kill her 14-month-old child because she wanted to engage in another relationship. It could be that her condition led her to



throw the child into the river however, her actions were unjustified and deserve some punishment, a custodial sentence. I, therefore, sentence the accused Rebecca Namisoo to serve eight (8) years imprisonment. Following section 333(2) of the Criminal Procedure Code, the sentence shall run from 29<sup>th</sup> January 2024 the day of her arraignment in court.

**DATED, SIGNED, AND DELIVERED AT BUNGOMA THIS 9<sup>TH</sup> AUGUST 2024.**

**R.E OUGO**

**JUDGE**

In the presence of:

Rebecca Namisoo/ Accused/ - Present in person

Mr Masiga -For the Accused Person

Miss Mwaniki - For the State

Wilkister - C/A

