



**Republic v Langat (Criminal Case 5 of 2019)  
[2024] KEHC 11013 (KLR) (24 September 2024) (Sentence)**

Neutral citation: [2024] KEHC 11013 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE 5 OF 2019  
RL KORIR, J  
SEPTEMBER 24, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**PATRICK KIPYEGON LANGAT ALIAS RUTO ..... ACCUSED**

**SENTENCE**

1. The Accused, Patrick Kipyegon Langat had been charged with the offence of offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence were that on 31st January 2019 at about 1600 hours at Olbobo village in Kiplabotwa location within Bomet County, he murdered Isaiah Keter. He took plea on 25th February 2019 where a plea of not guilty was entered by this court (Muya J.)
2. The trial commenced where Muya J, heard three witnesses (PW1, PW2 and PW3) and Dulu J. heard one witness (PW4) I took up the trial on 27th October 2010 and ruled that the matter should proceed from where it had reached.
3. Mr. Mureithi, learned Prosecution counsel informed the court applied to consolidate this matter with Bomet High Court Criminal Case Number E023 of 2021 where the suspect, Robert Kipngetich Langat had just been arrested. I allowed the consolidation and the two Accused, Patrick Kipyegon Langat alias Ruto being the 1st Accused and Robert Kiplangat Ngetich being the 2nd Accused and I further directed that the case against the 1st Accused would start de novo.
4. Patrick Kipyegon Langat alias Ruto alongside Robert Kiplangat Ngetich (1st and 2nd Accused respectively) were 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 31st January 2019 at about 1600 hours at Olbobo village in Kiplabotwa location within Bomet County, they jointly murdered Isaiah Keter.



5. The Accused took plea on 1st March 2022. The charge and every element thereof was read and explained to them in the Kipsigis language which language they understood. Both Accused pleaded not guilty to the offence and the plea of not guilty was entered by the court.
6. On 2nd November 2022, the 1st Accused's counsel, Mr. Kadet informed the court that the 1st Accused wished to plea bargain. Subsequently, parties dragged on with the plea negotiations and eventually a Plea Bargaining Agreement was drafted and filed on 15th April 2023. The Plea Agreement indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
7. On 15th April 2024, this court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he executed the Plea Agreement voluntarily.
8. On the same day (15th April 2024), the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in the Kipsigis language which he understood and he pleaded guilty. The court entered a plea of guilty for the offence of manslaughter.
9. The facts as read by the Prosecutor and captured in the Plea Agreement are as follows:-

“On 31/01/2019, at about 4 p.m., the deceased was at a local chang'aa den partaking in the traditional brew with other revelers. Later at about 6 p.m., as he was about to leave the chang'aa den, the Accused persons before the court arrived. They were in the company of Musa Langat who is still at large. They beckoned the deceased aside. They were armed with knives.

The first Accused i.e. Patrick Langat Kipyegon stabbed the deceased on his left hand. The second Accused i.e. Robert Kiplangat Ngetich and one Musa Langat who is still at large joined him and they stabbed the deceased all over his body. Members of the public gathered at the scene prompting the assailants to flee. The deceased was rushed to Longisa Referral Hospital where he was pronounced dead on arrival.

Meanwhile the two Accused persons were tracked down and arrested at Olbobo area of Mulot after attacking two other members of the public and inflicting serious head injuries. Their accomplice one Musa Langat escaped arrest and his whereabouts remain unknown. A post mortem performed on the body of the deceased on 2/02/2019 established that the cause of death was severe head injury secondary to assault.

The Accused persons were later arraigned in court and charged with murder. The 1st Accused person Patrick Langat Kipyegon has offered to plead guilty to the offence of manslaughter and take responsibility for the deceased's death.

The Prosecution accepts his offer. Having explained the importance of the plea bargaining process to the deceased's family particularly his brother John Terer, they are reluctant to accept the Plea Agreement. We however urge the court to note and consider that the decision to charge rests upon the ODPP.”

10. The Accused accepted the facts as true and the court convicted him on his own guilty plea for the lesser offence of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#).

### **Pre-Sentence Report**

11. The report stated that the Accused has had a battered developmental history that has been characterized by poor socialization and behavioral problems. That the Accused joined a company of negative peers who indulged in drugs and substance abuse. The report further stated that the Accused,



his brother (Moses Langat) and the deceased were friends and marauding youths whose activities were described as ill-intentioned, illegal and unwarranted. That they would later graduate to be members of a criminal gang who would terrorize and rob residents off their valuables and would peddle drugs.

12. It was stated that the Accused regretted the offence and prayed for leniency. That he took responsibility for his actions and prayed that the court release him on a non-custodial sentence.

### **Victim Impact Statement**

13. The deceased's wife stated that they had two children with the deceased at the time of his death. That she had since gone back to her paternal home due to the poverty she faced after the death of her husband. The deceased's parents stated that they suffered immense psychological trauma and emotional turmoil.
14. The deceased's family stated that they viewed the offence as the worst form of homicide which attracts a long prison sentence for the Accused. That they had accepted a request by the Accused's family for reconciliation but the cultural rites had yet to be performed.

### **Accused's Mitigation**

15. Mitigation by the Accused was made on his behalf by his counsel, Mr. Barusei. He submitted that the Accused was an orphan who depended on manual jobs for survival. That he took responsibility for his actions and that he was a first time offender.
16. It was counsel's submission that the Accused had been in remand for four years and during that time, he had a tremendous transformation of character. That he had acquired masonry skills and that he had sent members of his extended family to reach out to the deceased's family.
17. Counsel submitted that the Accused prayed for leniency and a non-custodial sentence and he undertook to obey the laws of the land.
18. When the Accused was invited to address the court, he stated that he had nothing to add.

### **Submissions by the State**

19. Mr. Njeru, learned Prosecution counsel submitted that they appreciated the Accused taking responsibility for his actions and plea bargaining thereby saving the State's resources. That the pre-sentence report was not favorable and his community was not receptive to him being released on a non-custodial sentence. Counsel stated that the Accused deserved a custodial sentence.

20. Sentencing serves multiple purposes as enumerated in the [\*Sentencing Policy Guidelines 2023\*](#) which outline the objectives of sentencing at paragraph 1.3.1 as follows:-

Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.

- i. Retribution.
- ii. Deterrence.
- iii. Rehabilitation.
- iv. Restorative justice.
- v. Community Protection.



- vi. Denunciation.
  - vii. Reconciliation.
  - viii. Reintegration.
21. The penal section for the offence of manslaughter is contained in section 205 of the *Penal Code* which provides:-

Any person who commits the felony of manslaughter is liable to imprisonment for life.
  22. I have considered the circumstances of the case. The Accused and his brother Moses Langat who is still at large stabbed the deceased severally on the fateful day causing him fatal injuries. It is said that the Accused, his brother and the deceased were friends who engaged in criminal activities and the fight that led to the deceased's death could have been occasioned by a disagreement over their criminal activities.
  23. I have considered the Pre-Sentence Report which painted the Accused as a suspected habitual criminal who engaged in crime and drug peddling within his community and the larger Mulot area. The community was not receptive of his release as they were weary of his criminal activities.
  24. I have considered the Accused's mitigation that he was remorseful and regretted his actions. I have also considered the fact that the Accused took full responsibility for his actions and his family had reached out to the deceased's family for reconciliation. The deceased's family were however adamant that the Accused deserved a custodial sentence.
  25. The *Sentencing Policy Guidelines 2023* at paragraph 2.3.15 lists the factors that a court should consider when deciding to impose a custodial or non-custodial sentence. They are as follows:-
    - i. Gravity of the offence: In the absence of aggravating circumstances, or any other circumstance that renders a non-custodial sentence unsuitable, a sentence of imprisonment should be avoided with respect to sentences that have been adjudged as deserving less than three (3) years.
    - ii. Criminal history of the offender: Taking into account the seriousness of the offence, first offenders should be considered for non-custodial sentences except where the seriousness of the offence crosses the custody threshold (where the offence is so serious that neither a fine or community sentence can be justified).
    - iii. Children in conflict with the law: Generally speaking, non-custodial orders should be imposed as a matter of course in the case of children in conflict with the law. The exception to this is in circumstances where in light of the seriousness of the offence, coupled with other factors, the court is satisfied that a custodial order is the most appropriate and would be in the child's best interest. Custodial orders should only be meted out as a measure of last resort and in accordance with the guidance provided under section 239 of the *Children's Act, 2022*. The court shall also issue post-committal supervision orders upon completion of the committal orders or the attainment of the age of majority where it is appropriate to so do in light of the nature of the offence and circumstances of the offender.
    - iv. Conduct of the offender: Non-custodial sentences are best suited for offenders who are already remorseful and receptive to rehabilitative measures.
    - v. Protection of the community: Where there is evidence that the offender is likely to pose a threat to the community, a custodial sentence may be more appropriate. The probation officer's reports should inform the court of the risk posed by the offender to the community in order to inform sentencing.



- vi. Offender's responsibility to third parties: Where committing an offender to a custodial sentence is likely to unduly prejudice others, particularly vulnerable persons who depend on them, a court should consider if, in light of the nature and seriousness of the offence, the objectives of sentencing can be met with a non-custodial sentence. The court should enquire into the offender's personal circumstances and, where appropriate, seek the assistance of a pre-sentence report.
26. I have considered the circumstances of the case. It was not clear to the court why the Accused and his accomplices viciously attacked the deceased. What is clear is that the attack left no room for survival. The post-mortem report showed that the deceased suffered multiple deep stab wounds and multiple fractures making the offence aggravated.
27. I have also considered the antecedents of the Accused as captured in the Probation Officer's pre-sentence report. He is an anti-social person who was not averse to criminal activity. I am persuaded that the community ought to be protected against him.
28. The Accused submitted that he has been in pre-trial custody for 4 years during which period he had acquired masonry skills which he would put into use once released. It is my view however that the Accused would benefit from further prison rehabilitation.
29. In the end, the Accused is sentenced to serve 15 years imprisonment. By dint of section 333(2) of the [Criminal Procedure Code](#), the sentence shall commence on 7th February 2019 being the date of his arraignment and pre-trial custody.

Orders accordingly.

**JUDGEMENT DELIVERED, DATED AND SIGNED THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 2024.**

.....

**R. LAGAT-KORIR**

**JUDGE**

**JUDGEMENT DELIVERED IN THE PRESENCE OF MR NJERU FOR THE STATE MR KIPNGETICH HOLDING BRIEF FOR MR KADET FOR THE ACCUSED AND SIELE (COURT ASSISTANT).**

