



**Republic v Njeru alias Kennedy Murimi Peter (Criminal Case
E013 of 2022) [2024] KEHC 12329 (KLR) (19 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 12329 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL CASE E013 OF 2022
LW GITARI, J
SEPTEMBER 19, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

KENNEDY MURIMI NJERU ALIAS KENNEDY MURIMI PETER ACCUSED

RULING

Background

1. The accused person Kennedy Murimi Njeru was charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code vide information dated 18/7/2024.
2. The particulars of the charge are that on the 10/7/2024 at Kangutu Market in Meru South Sub-County within Tharaka Nithi County the accused unlawfully caused the death of Jackline Makena Saverio.
3. The accused person denied the charge. The matter was then set down for hearing.
4. However the accused offered plea bargaining which was accepted by the State and a plea agreement was entered and was accepted by this court. The Prosecutor substituted the charge of murder with that of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code (Cap 63 Laws of Kenya)
5. The accused pleaded guilty to the charge and the facts were read out to him. The facts are as follows:-

Facts:

6. The facts are that on 10th July, 2022 at around 1200 hrs the deceased was in her hotel washing utensils when the accused went there and requested to be served food. When the deceased went to serve him food he drew a knife and wanted to stab the deceased prompting her to shout seeking help.



7. The son of the deceased came into the hotel after hearing the voice and saw the accused holding a knife and the mother was bleeding on the right hand side of the head and stomach.
8. He called for help from members of the public. In the meantime the accused escaped.
9. He was arrested by members of the public a few meters from the hotel for stabbing the deceased.
10. Police officer attended the scene and rescued the accused from mob justice and escorted him to Chuka Police Station. Meanwhile as the deceased was taken to Chuka Referral Hospital for treatment.
11. On 11 July 2022 the deceased succumbed to the injuries at Chuka Referral Hospital.
12. A postmortem was conducted on 20th July, 2022 and cause of death was determined to be severe blood loss due to penetrating stab wound.
13. The accused was then charged with Murder which was reduced to manslaughter after a successful Plea Bargaining.
14. The accused admitted the facts and was accordingly convicted on his own plea of guilty. The accused was treated as a 1st offender. In mitigation, the defence counsel urged the court to consider that the accused was not in his proper mental state at the time he committed the offence. The accused stated that he was remorseful and pleaded for leniency. The court called for a pre-sentencing report and the same was filed in court on 16/9/2024. The Probation Officer reports that the community is not willing to receive him and would wish to have him kept away from their midst if the offenders mental condition led him to commit this offence.
15. When the accused was arraigned in court, a medical report by Dr. Erick Bundi, a Clinical Psychiatrist, indicated that the accused was not fit to stand trial. He was committed to Mathari Mental Hospital where he was treated and a report dated 23/5/2023 confirmed that he had become capable of making his defence.
16. Against this background, this court is supposed to determine the appropriate sentence in the circumstances. The accused committed the offence on 10/7/2022 and was examined by a psychiatrist on 20/7/2022. The doctor found that he was not fit to stand trial. It follows that when he committed the offence he was suffering from a mental illness.
17. The Judiciary Sentencing Policy Guidelines -20:30 at page 41 states that the court is required to order that the offender be held in custody awaiting the President's Order. The court has the discretion to order that he be remanded in custody awaiting the President's Order. Section 166 of the Criminal Procedure Code provides:

166.

- (1) Where an act or omission is charged against a person as an offence, and it is given in evidence on the trial of that person for that offence that he was insane so as not to be responsible for his acts or omissions at the time when the act was done or the omission made, then if it appears to the court before which the person is tried that he did the act or made the omission charged but was insane at the time he did or made it, the court shall make a special finding to the effect that the accused was guilty of the act or omission charged but was insane when he did the act or made the omission.
- (2) When a special finding is so made, the court shall report the case for the order of the President, and shall meanwhile order the accused to be kept in custody in such place and in such manner as the court shall direct.



- (3) The President may order the person to be detained in a mental hospital, prison or other suitable place of safe custody.
- (4) The officer in charge of a mental hospital, prison or other place in which a person is detained by an order of the President under subsection (3) shall make a report in writing to the Minister for the consideration of the President in respect of the condition, history and circumstances of the person so detained, at the expiration of a period of three years from the date of the President's order and thereafter a expiration of each period of two years from the date of the last report.
- (5) On consideration of the report, the President may order that the person so detained be discharged or otherwise dealt with, subject to such conditions as to his remaining under supervision in any place or by any person, and to such other conditions for ensuring the safety and welfare of the person in respect of whom the order is made and of the public, as the President thinks fit.
- (6) Notwithstanding the subsections (4) and (5), a person or persons thereunto empowered by the President may, at any time after a person has been detained by order of the President under subsection (3), make a special report to the Minister for transmission to the President, on the condition, history and circumstances of the person so detained, and the President, on consideration of the report, may order that the person be discharged or otherwise dealt with, subject to such conditions as to his remaining under supervision in any place or by any person, and to such other conditions for ensuring the safety and welfare of the person in respect of whom the order is made and of the public, as the President thinks fit.
- (7) The President may at any time order that a person detained by order of the President under subsection (3) be transferred from a mental hospital to a prison or from a mental hospital, or from any place in which he is detained or remains under supervision to either a prison or a mental hospital.”

18. The accused is found guilty but was insane at the time he committed the offence. He shall be remanded in custody at the President's pleasure. The order shall be reviewed after three years and thereafter after every two years awaiting the President's Order.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 19TH DAY OF SEPTEMBER 2024.

L.W. GITARI

JUDGE

19/9/2024

Ms Lydia Kijaru for Accused

The Ruling has been read out in open court.

