



REPUBLIC OF KENYA



**Republic v Bii (Criminal Case E024 of 2021)
[2023] KEHC 863 (KLR) (10 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 863 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E024 OF 2021
AN ONGERI, J
FEBRUARY 10, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

GILBERT KIPRONO BII ACCUSED

SENTENCE

1. The accused person in this case Gilbert Kiprono Bii was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#).
2. The charge was reduced to one of manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) following a plea bargain agreement and the accused person pleaded guilty to the charge of manslaughter and he was convicted on his own plea of guilty.
3. The particulars of the charge were that on December 29, 2020 at Mogoiywet village in Kipsegei location Kipkelion sub-county within Kericho county, the accused Pperson unlawfully killed Robert Kipkoech Bii.
4. The facts of the case as given to the Court by the Prosecution Counsel were as follows:-

On December 29, 2020 at around 1000hrs, the accused called Daniel Kiptoo Arap Sigilai (D3) informing him that he had found a buyer for his piece of land. Upon receiving the said information, D3 proceeded to the home of the accused. He arrived and subsequently become a witness to the sale of the said piece of land measuring 0.5 Acres worth 250,000/= to one Sarah Kwamboka. The above-mentioned transactions were also witnessed by Vincent Bii, Robert Bii and Esther Sigilai.

Upon concluding the said transactions, the accused, one Victor Koskei and deceased went to Nyasakia to drink.



At around 2100hrs, the accused arrived home while drunk. He was later followed by the deceased who was also drunk. Consequently, a quarrel escalated between the two with the accused wanting to know why the deceased had gone to his house. In response, the deceased informed him that he had come to ask for forgiveness following the disagreement that they had at the said drinking den.

However, the accused started fighting the deceased instead of forgiving him. D1 (Simon Kibet Bii) and D2 (Esther Chepkemai Sigilai), who were at the time present, tried to separate them but there was no avail.

As the fight intensified, the accused drew a knife from his waist and stabbed the deceased on the stomach several times causing the deceased to fall down.

Swiftly, Vincent Bii (D1) and Duncan Ngeno (D5) disarmed the accused by taking the said knife away from him. The two then discovered that the deceased had been stabbed on the stomach and his intestines were protruding.

The villagers, who had already arrived at the scene, quickly rushed the deceased to the nearby road. They then put him in vehicle that took him to Litein Mission Hospital where he was admitted since he was in a critical condition.

When the accused realized that he had seriously injured the deceased, he escaped and hid himself in a nearby coffee plantation.

At around midnight, the area chief, his assistant and some of the members of the public searched and found the accused hiding in the said coffee plantation. They arrested the accused, who was by then in a blue jean and a light shirt with blood stains and handed him over to the police officers from Kipkelion police station. The said police officers then took the accused to Kipkelion police station and placed him in custody.

At the scene, a dagger with blood stains was collected and kept as an exhibit.

On December 31, 2021, the deceased succumbed to the injuries that he sustained from the said stab wounds that were inflicted on him by the accused.

On January 5, 2021, a postmortem was done on the body of the deceased by Dr Nickson Mutai who established that the cause of death was as a result of severe abdominal injury and chest injury secondary to assault arising from the said multiple stab wounds.

Upon completing the necessary investigations, charges of murder contrary to section 203 as read together with section 204 of the Penal Code were preferred against the accused. The said charges have now been reduced to the offence of manslaughter contrary to section 202 as read together with section 205 of the Penal Code.

5. The learned counsel for the accused person said in mitigation that the accused person is remorseful for the offence he committed and further that the accused person is a family man who is married with two children.
6. The learned counsel further told the court that the wife of the deceased has since ran away leaving the deceased's children with the parents of the deceased.
7. The probation officer filed a pre-sentence report detailing the social background of the accused person. It is stated in the report that the accused person and the deceased are brothers.



8. The report further states that the accused person attended school up to class seven and dropped out of school and he is known to be abusing alcohol.
9. The court has considered the mitigating circumstances in this case especially the fact that the accused person is remorseful and that he pleaded guilty to charge of manslaughter and saved the court's time for trial.
10. The offence of manslaughter is a serious one which calls for a life sentence.
11. Taking into account the mitigating circumstances in this case, the accused person is sentenced to twenty (20) years imprisonment.
12. The sentence will start running from January 15, 2021 when the accused person was first arraigned in court.

Right of Appeal against sentence – 14 days (Explained)

DELIVERED, DATED AND SIGNED AT KERICHO THIS 10TH DAY OF FEBRUARY, 2023.

A N ONGERI

JUDGE

