



REPUBLIC OF KENYA



**Republic v Miti (Criminal Revision E025 of 2022)
[2023] KEHC 913 (KLR) (10 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 913 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL REVISION E025 OF 2022
RN NYAKUNDI, J
FEBRUARY 10, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

HELLEN MUTONYI MITI ACCUSED

RULING

1. Hellen Mutonyi was initially charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of the offence being that on the 24th day of October, 2019 at Kimumu Estate, within Moiben Sub County, Uasin Gishu County murdered Simon Makomere She pleaded not guilty to the charge only later to enter into a plea agreement negotiation under section 137(A) (B) (C) (D) (G) (H) of the *Criminal Procedure Code*. This resulted in the prosecution reviewing the evidence by filing a new information for the offence of manslaughter contrary to section 202 and 205 of the *Penal Code*.
2. The applicant entered a plea of guilty for that less offence of manslaughter from which a conviction order carried the day. In the final submissions both counsels ventilated the issue on appropriate sentence in the circumstances of the case. The trial court considered the personal circumstances of the applicant, mitigation and aggravating factors as well as the nature, seriousness, and impact of the offence to the victim.
3. It is thus clear from the record that the applicant was sentenced to three (3) years imprisonment. This is same sentence has become the subject matter of revision on grounds that it is punitive and excessive given the personal circumstances of the applicant. It is significant to note that under article 50 (6) (A) &(B) of the *Constitution* there are no compelling circumstances to review the sentence imposed by the trial court. I further all the view that the proper forum to challenge that decision on sentence should have been the court of Appeal. With reference to section 382 of the *Criminal Procedure Code* I find no merit in the application for a review of sentence. It is therefore dismissed in its entirety.



DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 10TH DAY OF FEBRUARY 2023

.....

R. NYAKUNDI

JUDGE

In the Presence of the Applicant

Mugun for the State

