



**Republic v Sang & another (Criminal Case E059 of 2021)
[2023] KEHC 873 (KLR) (10 February 2023) (Sentence)**

Neutral citation: [2023] KEHC 873 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E059 OF 2021
AN ONGERI, J
FEBRUARY 10, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

KELVIN KIPRONO SANG 1ST ACCUSED

ARON KIMUTAI SANG 2ND ACCUSED

SENTENCE

1. The two accused person in this case Kelvin Kiprono Sang and Aron Kimutai Sang were charged with murder contrary to 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 two accused persons pleaded guilty to the charge of manslaughter and they were convicted on their own plea of guilty.
3. The particulars of the charge were that on August 6, 2021 at Chepkitor village, Kipteris Location in Kipkelion Sub-County within Kericho County, the two accused persons jointly unlawfully killed Johnstone Kiplangat Koech.
4. The facts of the case as given by the prosecution counsel were as follows:-

On the August 6, 2021, at around 7pm, the two accused persons were at chemongen trading centre not far from their home heard some screams emanating from the direction of their home, this prompted them and others they were with at the trading centre to run towards the direction of the screams.

On reaching their home, they found that their younger sister Sheila Chepchirichir was the one who was screaming. They inquired from her why she was screaming.



Sheila chepchirchir narrated to them how she went to the house of their uncle one Johnstone Koech, after she got find that her mother who had abandoned them was at their uncle's house and that she had tried to persuade her to go home with her but she refused vehemently, this left her with a heavy heart and then she screamed to let out her anger.

On hearing this, the accused persons and two of their friends Vincent and another one only referred to as "Mono" ran straight to Johnstone's house.

They found the house locked from inside and they could hear murmurs and giggles coming from inside, this made them want to know if it was truly their mother as earlier reported by their younger sister.

Aron Kimutai Sang (the second accused) and "Mono" broke the door and found their uncle and their mother in the house. They armed themselves with wooden beams from a broken table and used them to assault their uncle and their mother repeatedly.

Gilbert Kipkoech Chepkwony, their maternal uncle who had also heard the screams and was following them found the two assaulting the two and he first pull his sister Hanna Koech, caned her with a cane and then went inside and managed to intervene and begged the two to leave their uncle as they had assaulted him enough. In deed they heeded his advise and left the two writhing in pain. Kelvin and the other men headed to the trading centre while Aron and Sheila headed home.

The following morning, Kelvin Kiprono Sang (the 1st accused) woke up early and went to search for casual labour but was called by phone by one Wilson who informed him that their uncle Johnstone had died. He immediately ran back home and informed his brother the second accused and they fled to Fort Tenan to their grandfather's place. On reaching at their grandfather's place, they told him what had happened and the grandfather told them to go and surrender at the police station.

They returned, reaching their home at night. They slept and woke up early in the morning and went to Kedowa where they were spotted and arrested and escorted to Londiani Police Station and later transferred to Kipkelion Police Station.

The body of the deceased was taken to St Vincent Hospital Muhoroni.

On the August 11, 2021, the doctor conducted a postmortem on the body of the deceased and opined that the cause of death was as a result of severe head injury due to subdural hematoma.

After completion of investigations, the accused persons were charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#) which has now been reduced to manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#) pursuant to this agreement.

5. In mitigation, the learned counsels for both accused persons said the accused persons are remorseful for the offence they committed.
6. The accused persons who are siblings did not intend to kill their uncle. Further that the two were angered by their mother's action of staying away from home.
7. The court was also told that the two are bread winners since their mother is a habitual drunkard.
8. The probation officer filed social inquiry reports on behalf of both accused persons.



9. The deceased was a paternal uncle to the two accused persons and he was cohabiting with their mother at the material time.
 10. This court has taken into account the mitigating circumstances in this case. The two accused persons took the law into their hands and killed their uncle who was cohabiting with their mother.
 11. There were other ways of resolving the issue such as involving local administration instead of taking away the life of their uncle.
 12. The offence of manslaughter is a serious one that calls for a life sentence.
 13. Taking into account the mitigating circumstances of this case, the two accused persons are sentenced to ten (10) years imprisonment each.
 14. The sentence start counting from August 20, 2021 when they were 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

