



**Republic v Kipkoech (Criminal Case 45 of 2016)
[2023] KEHC 2064 (KLR) (21 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2064 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 45 OF 2016
RB NGETICH, J
MARCH 21, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

ELIJAH KIPLANGAT KIPKOECH ACCUSED

RULING

1. Elijah Kiplangat Kipkoech was initially charged with the offence of murder contrary to section 2013 as read with section 204 of the *Penal code*. Particulars of the offence are that on the night of 16th and July 17, 2016 at kapnyangale area in Rongai Subcounty within Nakuru county, accused jointly with others not before court Murdered Francis Sicheti Mahumu
2. The court in judgment delivered on June 30, 2022 convicted him for the offence of murder contrary to section 203 as read with section 204 of the penal code.
3. The state counsel Mr. Kihara stated the convict be treated as a first offender. He further stated that to date the accused is not admitting the offence; that he seems not remorseful. He urged the court to note that there is rampant increase in incidences of mob justice by members of public and urged the court to impose deterrent sentence to serve as a lesson to the accused and members of public that they should not take the law in their hands.
4. Mr. Maragia for the accused upon perusing the probation officer's report submitted that the victim and local community do not have a problem receiving the accused. He added that the community were surprised to learn of the occurrence of the offence and they say the accused has good record.
5. Counsel further submitted that the accused has a wife and a child aged 4 years and he is required to fend for the family and that he has been in custody since 2016 a period of 7 years now. He affirmed that the recommended one-year probation is well thought out. He submitted that there is no data on mob



justice presented to court and it would be unfair to go against the probation officer's report without a supplementary report from the prosecution.

6. The presentence report was filed by probation officer on August 31, 2022. In the report, the area chief describes the accused as a peaceful, hard working person who does not pick quarrels with other people and they were surprised when he was charged with this offence. The chief indicate that no criminal case has ever been recorded against the accused.
7. The report further indicate that the family look forward for the accused's eventual release and urged the court to impose a non-custodial sentence to be precise, one-year probation sentence
8. I note from the report that the accused respects courts verdict though he still denies committing the offence. I also take note of the fact that the family of the victim were not traced for interview as indicated in the report.
9. I have considered the circumstances surrounding the occurrence of the offence, the fact that the accused is remorseful, age of the accused, the fact that he has a young family, and the sentiments by the community and local administration. I have also taken note of the fact that this matter has been pending since August 2016 and I am of the view that non-custodial sentence would be appropriate.
10. Final Orders: -
 1. Accused to serve 2 years' probation sentence
 2. Right of appeal 14 days.

JUDGMENT DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 21ST DAY OF MARCH 2023

RACHEL NGETICH

JUDGE

In the presence of:

Daisy - Court Assistant

Mr. Kihara - Counsel for State

Mr. Maragia - Counsel for Accused

