



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Munywa (Criminal Case E024 of 2022)
[2023] KEHC 2631 (KLR) (9 March 2023) (Judgment)**

Neutral citation: [2023] KEHC 2631 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL CASE E024 OF 2022**

LW GITARI, J

MARCH 9, 2023

BETWEEN

REPUBLIC PROSECUTOR

AND

RAIS KIBAKI MUNYWA ACCUSED

JUDGMENT

1. The accused 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 are that the accused Rais Kibaki Munywa on the October 17, 2022 at around 9.00 hours at Ngaani village Gatitini Location, Tharaka North Sub-County, Tharaka Nithi County with others not before the court unlawfully murdered Ibrahim Ekeno Okale.
2. The accused person denied the charge. The court proceeded to fix the matter for the hearing of the main trial.
3. The accused thereafter approached the State for a plea bargaining agreement. The State entered negotiations with the accused and a plea agreement was entered pursuant to Section 137A of the *Criminal Procedure Code* (Cap 175) Laws of Kenya. The accused informed the court that he had voluntarily entered the plea agreement with the State. This court accepted the agreement and proceeded to read the lesser charge of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. The accused pleaded guilty to the charge and the court recorded a plea of guilty.
4. The facts of the case are that on October 16, 2022 the deceased's three donkeys and goats were stolen from his homestead which is near Ula Gate Gatitini Location. The herder of the donkeys and the goats raised an alarm when he saw the accused and three suspects who are at large leading the goats to the market. The following day, October 17, 2022 the deceased, Epur Lokironi and Ramiti Gitonga went and reported the matter. They then went to look for the goats and the donkeys and ended up in the



home of Ramisi. As the deceased and Gitonga were leaving the homestead they spotted the accused who was armed with bows and arrows and had waylaid them. The deceased and Gitonga jumped on a motor bike. The accused then shot an arrow at the deceased and it caught him near right side ear on the head. Lokironi raised an alarm and Ramiz rushed to where they had been waylaid. They saw the accused running away from the scene. The deceased lay on the ground at the scene with an arrow lodged on his head and was bleeding profusely. The deceased was rushed to Marimanti Hospital but he was pronounced dead on arrival. The accused was later arrested and charged with this offence of murder which was later reduced to manslaughter. A postmortem was done on the body of the deceased and the doctor formed the opinion that the cause of death was due to circulatory failure due to the injury on the head. The postmortem form was produced as exhibit -1

The accused admitted the facts and was found guilty as charged and convicted.

5. The State urged the court to treat the accused as a 1st offender as they did not have any record of previous convictions.
6. In mitigation, the accused urged the court to consider that he is twenty one years old. He is the last born in a family of six. He dropped out of school in class five (5) due to poverty. He told the court that he is remorseful and pleaded for leniency. He pleaded with the court for a none custodial sentence.
7. The court ordered that a social inquiry report be filed by the probation officer. The report was filed on March 2, 2023.
8. I have considered the social inquiry report. The only issue for determination is the sentence to be meted out on the accused. I note that the accused was twenty one years old when he committed this offence. The offence though it has been reduced to manslaughter was pre-meditated. The accused had waylaid the deceased and shot him with an arrow on a very sensitive part of the body, that is the head. This behaviour was reckless and must be discouraged. I note that the community is totally opposed to a none custodial. A none custodial sentence is not suitable. The accused will have to suffer the consequences of his actions. I have considered that he is a 1st offender. This court has a duty to mete out a sentence that takes into account the facts and the circumstances of the case. The family of the deceased is still traumatized and his wife and children have been reduced to beggars as per the probation officers report.
9. Section 205 of the Penal provides that;

'Any person who commits the felony of manslaughter is liable to imprisonment for life.'

The accused pleaded guilty. The accused pleaded with the court that he is remorseful. Having considered all the circumstances of this case, I sentence the accused to serve fourteen (14) years imprisonment. The sentence shall be reduced by four (4) months which is the period the accused has been in custody awaiting trial. This is in line with the provision of Section 333(2) of the Criminal Procedure Code.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 9TH DAY OF MARCH 2023.

L.W. GITARI

JUDGE

9/3/2023

Judgment has been read out in open court.1

