



**Republic v Chumba (Criminal Case E042 of 2021)  
[2023] KEHC 4003 (KLR) (4 May 2023) (Sentence)**

Neutral citation: [2023] KEHC 4003 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE E042 OF 2021**

**JK SERGON, J**

**MAY 4, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JOSEPHAT KIPNGETICH CHUMBA ..... ACCUSED**

**SENTENCE**

1. The Accused Person herein Namely: Josephat Kipngetich Chumba initially was arraigned before this court to be tried for the offence of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. Pursuant to a plea agreement executed by the office of the Director of Public Prosecutions and the Accused Person pleaded guilty to the lesser charge of Manslaughter Contrary to Section 202 as read with Section 205 of the *Penal Code*.
2. The particulars of the offence are that on 30<sup>th</sup> day of April, 2021 at Ogirgir Village Ketitui Sub-Location in Kericho East Sub-County within Kericho County, the Accused unlawfully killed James Kipchumba Sigilai.
3. Upon convicting the Accused, this Court invited the Accused to submit facts in mitigation and further directed the County Probation Officer to file a Pre-sentence Report.
4. Mr Musyoki, Learned Assistant Director of Public Prosecutions urged this court to treat the Accused as a first offender since he did not have the Accused's past criminal record.
5. Mr Mwita, Learned Advocate for the Accused stated that the Accused acted purely on self-defence. He pointed out that the deceased was drunk, provocative and abusive to the Accused. It is also stated that the Accused started uprooting the only tea bushes the family had and when he was restrained from continuing to destroy the tea bushes, he became quarrelsome and used a panga to assault the Accused and a fight ensued. In the process, the deceased was fatally injured.



6. The Learned Advocate further pointed out that the Accused has undertaken useful trainings while in custody. He urged this Court to be lenient and pronounce a non-custodial sentence. It is said that the family is willing to reconcile with the Accused and are ready to accept him back to society.
7. It is also said that the Accused has undergone the Kipsigis Traditional Reconciliation and Cleansing Ceremonies which will make it easier for the Accused to be re-integrated to society.
8. Mr Musyoki stated that the Accused is not remorseful at all. He proposed that a custodial sentence is the most appropriate in the circumstances of this case.
9. The Pre-sentence Report prepared by the County Probation Officer indicates that the clan and Accused's family are praying for a non-custodial sentence to be meted out. It is also said that the home environment is not hostile to the Accused being re-integrated back.
10. The Local Administration and the Community are not opposed to the Accused Person being released back to Society since the clan and the family are ready and willing to accept back their kin. The Probation Officer recommended for a non-custodial sentence.
11. I have considered the facts submitted in mitigation by the Accused Person. I have further take into account the Probation Pre-sentence Report and I am convinced that the appropriate sentence should be non-custodial. Consequently, I hereby sentence the Accused to serve Two (2) years on Probation under the supervision of the County Probation Officer, Kericho.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 4<sup>TH</sup> DAY OF MAY, 2023**

.....

**J. K. SERGON**

**JUDGE**

In the presence of:

C/Assistant – Rutoh

Musyoki for the State

Mwita for the Accused

CRIMINAL CASE NO.E042 OF 2021 Page 2

