



**Republic v Nyagakwa (Criminal Case 6 of 2015)  
[2023] KEHC 4021 (KLR) (4 May 2023) (Sentence)**

Neutral citation: [2023] KEHC 4021 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE 6 OF 2015**

**JK SERGON, J**

**MAY 4, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**STEPHEN MARANGA NYAGAKWA ..... ACCUSED**

**SENTENCE**

1. Stephen Maranga Nyagakwa, the Accused herein, was tried and convicted for the offence of Murder Contrary to Section 205 of the [Penal Code](#). The particulars of the offence are that on January 23, 2015 at Kapsongoi Tea Estate in Kericho East sub-County within Kericho County, the Accused murdered Linda Chemutai Keter.
2. Upon conviction, this Court directed the Kericho County Probation Officer to file a Pre-sentence Report. The Accused was also invited to make submissions in mitigation.
3. I have considered the Pre-sentence Report plus the facts submitted in mitigation. According to Mr Musyoki, Learned Assistant Director of Public Prosecutions invited this Court to treat the Accused as a first offender since he did not have the Accused Criminal Past Record.
4. Miss Kajaira, Learned Advocate for the Accused also confirmed that the Accused was indeed a first offender. The Learned Advocate informed this Court that the Accused is remorseful and only committed the offence under extreme provocation on the part of the deceased's estranged husband.
5. The Learned Advocate further stated that the Accused embraced Christianity while in custody. This Court was beseeched to be lenient to the Accused. It is also stated that the Accused is 33 years old and is married and blessed with two children. The Accused urged this Court to mete out a non-custodial sentence to enable him take care of his young family plus his aging mother.



6. The Learned Assistant Director of Public Prosecutions stated that the Accused does not deserve any mercy from this Court because the Accused is not remorseful. Mr Musyoki pointed out that the Accused had befriended a married woman whom he murdered using a slasher.
7. The Kericho County Probation Officer filed a comprehensive Pre-sentence Report on the Accused. Its apparent from the Pre-sentence Report that the Accused was married to one Divinah Kerubo and are blessed with three Children. The Probation Report indicates that the Accused were secret lovers with the deceased. It is also indicated in the report that the Accused regrets committing the offence.
8. It is the view of the community that the Accused is of good character who had no difficulties in relating with other people. The Probation Officer's Pre-sentence Report that the Accused's family have expressed their apology to Linda's relatives.
9. The record shows that the Accused was arrested in the month of January, 2015 and remained in custody until July 17, 2017 when he was released on bond. It is apparent that he remained in custody for 2 ½ years.
10. Having considered the Probation Pre-sentence Report plus the facts submitted in mitigation, I have come to the conclusion that the appropriate sentence in this case should be a custodial sentence. The Accused Person was found guilty and convicted after undergoing a lengthy trial taking a span of eight years
11. The Accused denied the offence throughout his trial. It is apparent from the Accused's conduct that he was not remorseful at all. The Accused executed the deceased's murder in a savage manner. He inflicted several cut wounds using a sharp object on the deceased's head, legs, and hands. The Deceased is said to have died as a result of blood loss due to multiple cut wounds.
12. I have taken into account the fact that the Accused was held in custody for 2 ½ years. I have also taken into consideration that the Accused is the bread winner to his young family and the fact that his aging mother depends on him.
13. However, it should be noted that the Accused's act led to the loss of an innocent life. The Deceased did not deserve to die in the manner she died. A deterrent sentence is necessary in the circumstances.
14. I hereby sentence the Accused namely: Stephen Maranga Nyagakwa to serve 20 years imprisonment

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 4TH DAY OF MAY, 2023**

.....

**J. K. SERGON**

**JUDGE**

**In the presence of:**

**C/Assistant – Rutoh**

**Musyoki for the State**

**Miss Chepkorir holding brief for Langat for Accused**

**Accused Person – Present in Person**

