



**Republic v Makori (Criminal Case 42 (E042) of 2023)  
[2023] KEHC 20783 (KLR) (25 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20783 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISII  
CRIMINAL CASE 42 (E042) OF 2023  
PN GICHOHI, J  
JULY 25, 2023**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**BENARD ONCHIRI MAKORI ..... ACCUSED**

**RULING**

1. Benard Onchiri Makori (herein referred to as 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 were that on the 13<sup>th</sup> -June 14, 2022 at Sameta Sub- County within Kisii County murdered Nancy Kireri.
2. However, he reached into a plea Ban agreement with the Prosecution under Section 137 A-O of the *Criminal Procedure Code* and he admitted the charge of Manslaughter contrary to Section 203 as read with Section 205 of the *Penal Code* and was convicted accordingly.
3. The prosecution urged the Court to treat him as a first offender and in mitigation Ms Gogi for the accused urged the Court to consider a non- custodial sentence as the accused person is remorseful and seeks leniency. Further he told the Court that the accused is the bread winner of his young family.
4. This Court called for Pre- sentence Report and it was filed on July 21, 2023 by Mr Gerald Atinda, the County Director of Probation Services. The report has highlighted the circumstances under which this offence was committed and shows that even if the 40-year-old accused person used to drink as he had done in this case, he is a very responsible person for his family. His siblings and his elderly father are willing to have him back in the family and take care of his children as he is rehabilitated.
5. I have considered the sentence for the offence of Manslaughter is life imprisonment as is provided for under Section 205. I however consider the circumstances under which this offence was committed and that the accused person is a first offender. His mitigation is supported by the pre-sentence report



herein. A custodial sentence may not be suitable for him in the circumstances. He should be re- united with his family and continue to support his young family as he also undergoes some rehabilitation to reduce his alcohol uptake. I therefore sentence him to serve three (3) years on probation.

**DATED, SIGNED AND DELIVERED AT KISII THIS 25<sup>TH</sup> DAY OF JULY, 2023.**

**PATRICIA GICHOHI**

**JUDGE**

**In the presence of:**

**Mr. Ochengo for the State**

**Accused person present**

**Ms Gogi for Accused person**

**Kevin Isindu, Court Assistant**

