



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mutai (Criminal Case 11 of 2020)
[2023] KEHC 20198 (KLR) (19 July 2023) (Sentence)**

Neutral citation: [2023] KEHC 20198 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 11 OF 2020
HK CHEMITEI, J
JULY 19, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

VINCENT KIPROTICH MUTAI ACCUSED

SENTENCE

1. The accused herein had previously been charged with the offence of murder which was later after plea bargain reduced to manslaughter contrary to section 202 as read with section 205 of the [Penal Code](#).
2. The particulars of the charge were that on the 2nd day of February 2020 at Bararget village Keringet location in kuresoi south sub county within Nakuru county caused the unlawful death of Nicholas Kipkemoi.
3. The accused admitted the offence and the accompanying facts. It emerged from the facts that the deceased owed him Kshs 50 which he had given him to make a bearded bangle. The deceased failed to do so and he in fact refused to refund him the money.
4. An altercation ensued and the accused took a bow and an arrow and shot the deceased on the neck while he fled. He felt down and attempts to remove it were futile. He was rushed to the hospital and died about six days later while undergoing treatment. A post mortem report produced showed as much.
5. In his mitigation the accused who is a student in form three and was 17 years old during the commission of the offence pleaded for forgiveness and leniency. The learned state counsel submitted that the accused was a first offender and concurred with the pre-sentencing report.
6. The court directed that a pre-sentencing report be prepared which was done and the same indicates that both families had taken steps towards reconciliation. There was no evidence that the accused had



any criminal record or abused drugs or alcohol. It appears that the incident was a spur of the moment and failure by the deceased to refund the Kshs 50 he owed the accused.

7. Be it as it may, there was no reason absolutely for the accused to take the law into his own hands. He ought to have managed his anger.
8. The pre-sentencing report is favourable to the accused who as is indicated is still undertaking his studies at Kianjoya secondary school.
9. Consequently, he is hereby sentenced to serve a three (3) years' probation period from the date herein. The relevant probation office should take him through counselling session and ensure that the two families reach an amicable settlement or reconciliation whether traditional or otherwise.
10. The surety discharged

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 19TH DAY OF JULY, 2023.

H. K. CHEMITEI

JUDGE

