



**Republic v Chepkoech (Criminal Case 11 of 2019)  
[2023] KEHC 22753 (KLR) (25 September 2023) (Sentence)**

Neutral citation: [2023] KEHC 22753 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE 11 OF 2019  
RL KORIR, J  
SEPTEMBER 25, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**TABITHA CHEPKOECH ..... ACCUSED**

**SENTENCE**

1. Tabitha Chepkoech (Accused) was charged with the offence of murder contrary to section 203 as read with Section 204 of the *Penal Code*. She was alleged to have murdered Kevin Kiptoo Bett on 5<sup>th</sup> May 2019 at Kapkwen Market within Bomet Central Sub-County.
2. At the close of the trial, this court convicted her of the lesser offence of manslaughter contrary to section 205 of the *Penal Code*. In convicting the Accused, the court stated at paragraph 52 of its Judgement dated 24<sup>th</sup> February 2023 that: -

“This court observes that there was scanty evidence on the circumstances surrounding the stabbing of the deceased. There was no evidence showing what had transpired before the fight. What is clear however, is that the fight took place outside the Accused’s house. The Prosecution did not show through evidence that the Accused planned to kill the deceased. PW2’s evidence that they fought raises the possibility that the stabbing was sudden and may too have been in self-defence. There is a likelihood that the Accused had malicious intent to end the life of the Accused. There is also a likelihood that she fought back and stabbed him in self-defence. As the law stands, the benefit of such doubt must go to the Accused person.”

3. The court held a sentencing hearing on 29<sup>th</sup> March 2023. Submitting on behalf of the Accused, learned defence counsel Mr. Mugumya stated that the Accused was a mother of two young children who needed her. That she was remorseful and was a first-time offender. That while in custody he had acquired skills which would help her earn a living and be a better person. Counsel asked the court



to consider that the Accused had been in custody since May 2019 and to grant her a non- custodial sentence.

4. The Accused addressed the court and stated she was now transformed and given another chance she would live her life differently and raise her children.
5. This court called for a pre-sentence probation officer's report and a victim impact statement. The report filed on 28<sup>th</sup> March 2023 states that the accused is a mother of two children aged 10 and 9 years who are currently under the care of the Accused's mother. That both the victim and the Accused came from the same clan and their respective families had reconciled. With respect to the community, the report states that they were not opposed to her being granted a lenient sentence as there was no risk of disharmony.
6. The Learned prosecution Counsel submitted that the Accused was a first offender and left the matter to the court.
7. I have considered the mitigation by the Accused against the objectives of sentencing. The objectives captured in the Judiciary Sentencing Guidelines include:
  - i. Retribution: to punish the offender for his/her criminal conduct in a just manner.
  - ii. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
  - iii. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
  - iv. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
  - v. Community protection: to protect the community by incapacitating the offender.
  - vi. Denunciation: to communicate the community's condemnation of the criminal conduct.
8. No doubt the offence of manslaughter is a serious one which attracts a maximum life sentence under section 205 of the Penal Code. In this case, I have considered the mitigating circumstances stated both in the submissions of the Accused and in the pre-sentence probation report. I have also considered that the victims of the offence had reconciled with the Accused's family and forgiven her. Further I am persuaded by the demeanor and submission of the Accused that she was remorseful and regretted the incident and that she was ready to chart a new course in being a useful and law-abiding citizen.
9. Finally, I have taken into consideration the fact that the Accused has spent 4½ years in pre-trial custody. Section 333(2) of the *Criminal Procedure Code* provides:-

Subject to the provisions of section 38 of the *Penal Code* (Cap. 63) every sentence shall be deemed to commence from, and to include the whole of the day of, the date on which it was pronounced, except where otherwise provided in this Code.

Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.



10. Paragraph 7.10 of the Judiciary Sentencing Policy Guidelines states as follows: -

“The proviso to section 333(2) of the Criminal Procedure Code obligates the court to take into account the time already served in custody if the convicted person had been in custody during trial. Failure to do so impacts on the overall period of detention which may result in an excessive punishment that is not proportional to the offence committed.”

11. I am persuaded that the Accused has benefited from prison rehabilitation during the pre-trial custody. I consider the long pre-trial custody sufficient. The Accused shall serve 3 years’ probation. As part of her Probation Sentence, the Probation officer may, in consultation with the Bomet Prison authorities, assign her suitable mentorship visitation duties for a specified period not exceeding 6 months as they may deem fit.

Orders accordingly.

**SENTENCE DELIVERED, DATED AND SIGNED AT BOMET THIS 25<sup>TH</sup> DAY OF SEPTEMBER, 2023.**

.....

**R. LAGAT-KORIR**

**JUDGE**

