



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Emojong (Criminal Case E010 of 2022)  
[2023] KEHC 22970 (KLR) (22 September 2023) (Sentence)**

Neutral citation: [2023] KEHC 22970 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MARSABIT  
CRIMINAL CASE E010 OF 2022  
JN NJAGI, J  
SEPTEMBER 22, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**LOLIM EMOJONG ALIAS NDOVU ECHAKARA ..... ACCUSED**

**SENTENCE**

1. The accused herein pleaded guilty to a charge of manslaughter after a plea bargain agreement with the prosecution. The case is now coming up for sentence. The prosecution did not have previous records for the accused. He should therefore be treated as a first offender.
2. The facts of the case as re-produced by the prosecution after the accused pleaded guilty is that the accused and other revelers were on the December 22, 2022 having drinks at 680 bar in Marsabit town. That at 9.00pm the proprietor closed the bar and ordered the revelers out of the bar. When the revelers got out, there arose an argument between one Isack Hussein Guracha and one Mercy Kigia who was operating a next door bar called Choices. The argument then shifted to between Isaack Guracha and Gitau Lekitua after Gitau asked Isaack why he was arguing with Mercy. On seeing this the deceased who was together with Gitau joined in the argument. He drew out a panga that he had concealed in his trousers. The accused who was also present joined in the fray. After a brief altercation with the deceased he drew out a kitchen knife and stabbed the deceased on the left side of the chest. He then ran away. The deceased was taken to Marsabit county referral hospital where he succumbed to the injury. A postmortem examination was conducted on the body. The cause of death was found to be haemorrhage shock consistent with a stab wound. The accused was charged with the offence of murder. He thereafter engaged the prosecution in a plea bargain agreement and the charge was reduced to manslaughter to which he pleaded guilty.



3. Counsel for accused, Mr. Nyenyire mitigated that the accused was remorseful for committing the offence. That he was a young man of 20 years of age. That he has parents and siblings and is the breadwinner of the family.
4. The Accused was given an opportunity to address the court. He pleaded for leniency and said that he was a casual labourer in Marsabit town.
5. The Court called for a pre-sentence report that was prepared by a Probation officer, Mr JK Mathenge. The report indicated that the accused hails from Loiyangalani in Marsabit County and has no fixed place of abode in Marsabit town where he was hecking a living.
6. I have considered the mitigation by the accused and his defence counsel. I have also considered the circumstances under which the offence was committed. Also that the accused is a first offender. He is a young man aged 20 years.
7. I do bear in mind that sentencing lies at the discretion of the trial court and that the same should be exercised judiciously. The accused stabbed the deceased for no apparent reason as the argument did not initially involve him. There was no evidence that the deceased had attacked the accused before the Accused stabbed him.
8. Considering all the circumstances of the case, it is my view that I should impose a custodial sentence. This is compelled by the fact that a precious life was lost over something that could have been solved amicably. I sentence the accused to serve six years imprisonment. The same to commence from the date of his first appearance in court that is on December 28, 2022.

**DELIVERED, DATED AND SIGNED AT MARSABIT THIS 22<sup>ND</sup> DAY OF SEPTEMBER 2023.**

**J. N. NJAGI**

**JUDGE**

**In the presence of**

Mr. Otieno for Respondent

Mr. Nyenyire for accused

Accused present

Court Assistant – Jarso

14 days Right of Appeal explained

