



**Republic v Cheruiyot (Criminal Case E005 of 2022)
[2024] KEHC 12382 (KLR) (17 October 2024) (Sentence)**

Neutral citation: [2024] KEHC 12382 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E005 OF 2022
JK SERGON, J
OCTOBER 17, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSHUA KIPKOSKEI CHERUIYOT ACCUSED

SENTENCE

1. Joshua Kipkoskei Cheruiyot the Accused herein, pursuant to a plea bargaining agreement was convicted with the offence of manslaughter contrary to section 202 as read with section to section 205 of the *Penal Code* Cap 63 Laws of Kenya. The particulars of the offence are that, the accused on the 29th day of January, 2022 at Chakoror Village in Soin-Sigowet Sub-County within Kericho County, unlawfully killed Jennnifer Chelangat alias Diana Chelangat.
2. Upon convicting the accused person for the aforesaid offence, this court directed the county probation officer to file a pre-sentence report and also invited the accused to make submissions in mitigation to guide the court in determining the appropriate sentence to be meted out.
3. Mr. Morata, the Learned Counsel for the Accused, submitted that the accused was remorseful and was therefore seeking for this court’s leniency. It is the submission of Learned Counsel that there was a domestic altercation over funds allegedly misappropriated by the deceased. The Learned Counsel submitted that the accused was willing to undergo the traditional cleansing rites. The Learned Counsel submitted that the accused was the sole surviving parent. The accused pleaded guilty to the lesser charge of manslaughter thereby saving this court time for trial and therefore a non-custodial sentence is appropriate.
4. Mr. Musyoki, Learned Assistant Director of Public Prosecutions, on his part submitted that he did not possess previous criminal records of the accused and the accused could therefore be treated as a



first offender. The Prosecutor submitted that the instant case is based on gender based violence and therefore a custodial sentence is the most appropriate.

5. This court also called for a pre-sentence report. I have considered the pre-sentencing report prepared and filed by the Kericho County – Probation Officer in respect of the accused person. In the aforesaid report, it is noted that on the material day, the offender and his wife (the deceased) had an altercation over the misappropriation of family finances, the offender hit the deceased on the head using a cooking stick and that as they rested for the night, the offender realized that his wife was still and cold. The offender responded by reporting the matter at the local police station when he got apprehended.
6. The offender was remorseful and admitted to have acted out of provocation on the material day. The Accused submitted that the incident was not premeditated and the Accused had no intention to fight with the wife whom he loved and supported. The offender urged this court to exercise leniency and place him on a non-custodial sentence in order to afford him the chance to take care of his children and his aged grandmother.
7. The deceased’s family comes from Sondu approximately 15 kilometres away from the offender’s home. The families had reconciliation talks and the hatred which arose had subsided.
8. The area administrator stated that the offender has no history of criminality in the community or a record of keeping company of individuals with antisocial morals. The area administrator stated that the offender and his wife (the deceased) did not experience any marital challenges and they lived happily before the incident. It is argued that the offender has strong ties with the community. The offender’s neighbours and villagers urged this court to exercise leniency and place the offender on a non-custodial sentence as it would offer him a chance to take care of his aged and ailing grandmother and take up the responsibility of taking care of the two children.
9. Based on the findings of the social inquiry and assessment, the probation officer found the offender a suitable candidate for placement on probation order for a period of (2) years.
10. I have considered the fact that the accused person was arrested on January 29, 2022 soon after committing the instant offence and was arraigned in court and remanded. The accused successfully made an application for bail, however, he did not raise the bail and therefore has been in remand for a period of 2 years and 7 months.
11. I have considered the circumstances of the offence, submissions in mitigation and have further considered the contents of the pre-sentence report filed by the county probation officer in respect of the accused person. In my view and the circumstances of this case, I find that a non-custodial sentence is appropriate. Consequently, I hereby sentence the Accused namely: Joshua Kipkoskei Cheruiyot to serve three (3) Years on Probation under the supervision of the Kericho County Probation Officer.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 17TH DAY OF OCTOBER, 2024

J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor - Musyoki

Accused – Present in Person

Morata for the Accused

