



**Republic v Kemboi alias Mrefu (Criminal Case 3 of 2017)  
[2024] KEHC 12402 (KLR) (17 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 12402 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE 3 OF 2017  
JK SERGON, J  
OCTOBER 17, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**CHARLES CHERUIYOT KEMBOI ALIAS MREFU ..... ACCUSED**

**RULING**

1. Charles Cheruiyot Kemboi alias Mrefu 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 19th day of February, 2017 at Kapsoit Trading Centre in Belgut Sub-County within Kericho County, unlawfully killed Andrew Kibet Rono.
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. Sang, the Learned Counsel for the Accused, submitted that the accused is a family man, with two school going children who are both in secondary school and that he is the sole breadwinner. The Learned Counsel submitted that the incident arose following a confrontation with the deceased over a love triangle and in an act of self defence, the accused unintentionally took the life of the deceased. The Learned Counsel stated that the accused was deeply remorseful for the events that culminated in the demise of the deceased. The Learned Counsel stated that the accused pleaded guilty to the lesser charge of manslaughter thereby saving this court time for trial. The Learned Counsel further submitted that reconciliation and customary cleansing rites were done and the victim's family had forgiven the accused. The Learned Counsel therefore urged this court to exercise leniency during sentencing.



4. Mr. Musyoki, Learned Assistant Director of Public Prosecutions, on his part submitted that the accused had intent to kill, as he pursued the deceased who had fled and proceeded to stab him severally. The Learned Prosecutor stated that during the trial, the accused was unremorseful 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 the offender ekes a living through subsistence farming and casual jobs. The accused has no previous criminal record.
6. On the material day, the offender and the deceased had an altercation over a girlfriend and the offender overpowered the deceased culminating in the instant offence. The offender was remorseful and 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 elderly father who is widowed.
7. The family of the accused are in support of a non custodial sentence in order to afford him the opportunity to fend for his family and take care of his aged father.
8. The offender had reconciled with the deceased's family, they are not opposed to a non custodial sentence.
9. The community and the local administrator are in support of a non custodial sentence in order to give the offender the chance to reintegrate with the community and to take care of his family.
10. Based on the findings of the social inquiry and assessment, the probation officer found the offender a suitable candidate for a non custodial sentence and recommended the offender for placement on a probation order for a period of two years subject to this court's verdict.
11. This court has considered that the accused person was arrested on 22nd February, 2017 soon after committing the instant offence, he was arraigned in court and remanded. The accused made an application for reasonable bail/bond terms, the accused was granted bond of Kshs. 200,000/= with a surety of similar amount. The accused was subsequently released on 3rd April, 2017 and therefore not in police custody during the trial.
12. 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. I am convinced that a non-custodial sentence is appropriate.
13. Consequently, I hereby sentence the Accused namely: Charles Cheruiyot Kemboi alias Mrefu to serve three (3) years on Probation under the supervision of 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

Convict – Present in Person

Kiletyen holding brief for Accused

