



**Republic v Beja (Criminal Case 51 of 2018)
[2024] KEHC 16102 (KLR) (13 December 2024) (Sentence)**

Neutral citation: [2024] KEHC 16102 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE 51 OF 2018
MN MWANGI, J
DECEMBER 13, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

MWAKA BEJA ACCUSED

SENTENCE

1. The accused person was first arraigned in Court on 12th November, 2018. In computing sentence, I will consider the time she has been in custody at Shimo-la-Tewa prison and not in the time she was arrested by the Police. The Court record shows that she has been in custody since 12th November, 2018, and not 25th October, 2018, which Mr. Ngaine states was the date that she was arrested. I do not have that record of her arrest.
2. I have considered the accused person’s mitigation in that she is remorseful and regrets the acts of commission and omission that led to the deceased’s death. She has urged this Court to set her free, or in the alternative give her a non-custodial sentence as she has a daughter who is 8 years old, whose father was the deceased.
3. The accused person has also explained that she has done two para-legal certificate courses, done her KCPE in Shimo-la-Tewa Prison and that she is now in Form 1. She has also stated that she has acquired skills in weaving of baskets and mats and plaiting of hair, which skills she will put into use when released from custody.
4. She states that she is now rehabilitated and hopes that the family of the deceased will forgive her for the causing the death of the deceased.
5. I note that the Prosecution Counsel has said that the accused person is a first offender. Even as I bear in mind the mitigation proffered by the accused person, I must also not forget that a life lost can never be regained/recovered. The deceased had his family apart from the child he bore with the accused person



herein. As a Court, I cannot just consider the accused person's interest without considering the fact that the deceased died due to her actions.

6. I note that the accused person says that she is rehabilitated. Sentencing following conviction, is not only aimed at rehabilitation, but it is also aimed at retribution in order to punish a convict for the offence committed with the aim of making her a better person who can fit into the society and co-exist in a better way with others.
7. Noting the actions of the accused person in this case, that after injuring the deceased she told no one about his condition so that he could be assisted by being taken to hospital, and the fact that she locked the door of the house where the deceased lay bleeding with a latch from outside after she committed the offence, the circumstances of this case do not call for a non-custodial sentence.
8. The victim impact assessment report and pre-sentence report are shallow and do not assist this Court at all.
9. Having considered all the relevant factors, I sentence the accused person to thirteen (13) years imprisonment. The period of 6 years and 1 month that she has been in prison custody will be commuted from her sentence in line with the provisions of Section 333(2) of the [Criminal Procedure Code](#). She will also be eligible to have her sentence remitted in accordance with the law.

It is so ordered

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 13TH DAY OF DECEMBER, 2024.
SENTENCE DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

NJOKI MWANGI

JUDGE

In the presence of:

Accused person present

Ms Anyumba h/b for Ms Nyawinda for the DPP

Mr. Ngaine for the accused person

Ms B. Wokabi - Court Assistant.

