



**Republic v Karitu (Criminal Case 45 of 2020)
[2024] KEHC 16624 (KLR) (6 December 2024) (Sentence)**

Neutral citation: [2024] KEHC 16624 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 45 OF 2020**

A MSHILA, J

DECEMBER 6, 2024

BETWEEN

REPUBLIC PROSECUTOR

AND

JOHN MWANGI KARITU ACCUSED

SENTENCE

1. The accused was initially charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code. Upon a Plea Bargain Agreement being entered this charge was then reduced to Manslaughter.
2. The Plea Bargain Agreement is dated 15th July, 2024 was adopted by the court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion.
3. The accused was charged with having unlawfully killed MONICAH WAIRIMU KURIA on the 7th day of December, 2020 at Kawaida Kiharoini in Kawaida Location within Kiambu County; he was convicted on his own plea of 'Guilty' of the offence of Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code.
4. At the hearing hereof, the accused was represented by Learned Counsel Ms. Wairimu whereas Mr. Gacharia was the Prosecuting Counsel for the State. Both counsels were invited to make submissions in mitigation before sentencing.
5. Prosecuting Counsel for the State submitted that by accepting the Plea Bargain the accused had not wasted judicial time; the facts of the case are that on the 7th December, 2020 the Accused came home drunk and picked up a quarrel with his son named Jeremiah who had not brought home a receipt for school fees. the Accused started beating up the son and the wife (the deceased) tried to intervene when the accused turned on her and started boxing, beating and kicking her. The next morning the accused



called the daughter Miriam to go to the bedroom to wake up the mother and she found the body of the deceased with a cut wound on her neck; the sheets were blood stained and the body was covered with a blanket; the police officers from Kawaida Police Station; after the scene was processed by officers from Kasarani Police Station the accused was arrested and charged with unlawfully killing his wife.

6. The Post Mortem Report was prepared by Doctor Dorothy Njeru on 15th December, 2020 who stated that the cause of death was due to stabbing to the neck with a sharp penetrating object.
7. It had no previous records of the accused and that he could be treated as a first offender.
8. In mitigation Counsel for the accused submitted that the convict was extremely remorseful for his actions and regretted the loss of life and also of his wife; he was apologetic to the victim's family and to his children and had reconciled with them and didn't want them subjected to the court process; he pleaded for a non-custodial sentence to enable look after his minor children who were living at the mercy of relatives.
9. The accused had been arrested and arraigned in court on 8th December, 2020 and never enjoyed the benefits of bail/bond and had therefore spent four (4) years in custody and the period spent in remand be treated as an adequate custodial sentence.

Analysis

10. It is the duty of this court to impose a sentence that meets the facts and circumstances of the case; The applicable law on sentencing for the offence is found under the provisions of Section 205 of the [Penal Code](#) which reads as follows:-

“ Any person who commits the felony of manslaughter is liable to imprisonment for life.”

11. The offence of Manslaughter was punishable by a maximum sentence of life imprisonment; the maximum mandatory sentence is usually reserved for the worst case scenario; but the Court of Appeal in the case of [Manyeso v Republic](#) [2023] KECA827 (KLR) declared the mandatory life sentence to be unconstitutional as it was indeterminate, discriminatory, inhumane and a violation of the right to human dignity; and that the accused are entitled to mitigate and a definite sentence as opposed.
12. This Court has considered the full circumstances of the offence which is that there had been a long standing strained spousal relationship arising from his alcoholism; the accused had sought to discipline his son Jeremiah and the wife had tried to intervene. It is apparent from the facts that the accused continued with this fight with his spouse even after they had retired for the night. In the ensuing melee the accused stabbed the deceased who later succumbed to the injuries inflicted.
13. This Court has taken into consideration the aggravating circumstances in the commission of the offence in that the convict's use of a deadly weapon leading to the unfortunate state of affairs.
14. The mitigating factors taken into consideration by this Court are that the accused readily pleaded guilty and thus saved the court on judicial time; the accused has reformed and has acquired skills whilst remanded which he states he will utilize to earn a living to support his family; he has also expressed his remorse and found to have no previous record and is deemed to be a first offender.
15. The aggravating factors in this instance far outweigh the mitigating factors; the accused was the initiator of the domestic violence on his spouse and son; even though there was no evidence that the attack was premeditated the accused used a sharp object to inflict the fatal injuries; this court is thus satisfied that



the accused is deserving of a deterrent custodial sentence proportionate to the gravity of the offence so as to deter others from committing similar crimes; and finds a term of Ten (10) years to be an appropriate sentence.

16. It is noted that the accused was arrested on the 8th December, 2020 and was granted bail. Being unable to raise the bond he was remanded for a period of approximately four (4) years during the pendency of the trial; this court therefore invokes the proviso to Section 333(2) of the [Criminal Procedure Code](#) in that the period spent in custody be deducted from the sentence imposed of Ten (10) years.

Findings & Determinations

17. For the foregoing reasons this court makes the following findings and determinations:-
- i. A custodial sentence of Ten (10) years imprisonment is found to be an appropriate sentence;
 - ii. The period spent in remand of Four (4) years be deducted from the sentence.

Orders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 6TH DAY OF DECEMBER, 2024.

A. MSHILA

JUDGE

In the presence;

Sanja – Court Assistant

Gacharia – for State

Wairimu – for Accused

Accused – present in court- remanded at Nairobi Remand Prison

