



**Republic v Sidandi alias Esau (Criminal Case E026 of 2022)  
[2024] KEHC 15553 (KLR) (6 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15553 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E026 OF 2022  
DK KEMEL, J  
DECEMBER 6, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SAMUEL OUMA SIDANDI ALIAS ESAU ..... ACCUSED**

**RULING**

1. The accused herein Samuel Ouma Sidandi was charged with an offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. Vide a plea bargain agreement dated 20/5/2024, the charge was later reduced to that of manslaughter contrary to Section 202 as read with Section 205 of the Penal Code in which he was subsequently convicted therefor.
2. Sentencing hearing proceeded on 16/6/2024. Counsel for defence Mr. Ooro submitted in mitigation that at the time of the incident, the accused was not in good mental state. That the accused is a first offender who deserves a second chance since he is a family man with a 7-year-old child. Counsel sought for non-custodial sentence. That the accused requires to visit hospital regularly to which the family undertakes to be taking him to hospital.
3. The court called for a pre-sentence report which was filed on 18/11/2024. The summary of the said report is inter alia; that the accused abuses substances and whenever he indulges in the same, he ends up being unruly which has been linked to his mental condition; That he needs to be put on check regarding substance abuse; that he is remorseful; that the accused’s family are ready to take him back and take care of him as he requires constant medication and supervision so that he does not relapse into drug abuse; that the family of the deceased are bitter over the death of their kin and are seeking for punitive punishment; that the local administration is not opposed to accused being given non-custodial sentence as long as his family keeps close surveillance especially about his medication; that the probation officer is of the view that the accused needs psycho-social support which can only be provided by the probation department and hence the need to place him under probation.



4. I have given due consideration to the mitigation presented on behalf of the accused as well as the pre-sentence report. Under section 205, the punishment for manslaughter is a sentence of life imprisonment. However, this is the maximum sentence imposed for the worst offenders where the circumstances are aggravating.
  
5. The circumstances leading to the death of the deceased are tragic in that the deceased who was the accused's wife was viciously assaulted by the accused after they had come from enjoying themselves at a certain bar and later dragged her all the way to their home. The following day, the body of the deceased was found outside their marital home. The autopsy was later conducted on the body and that the cause of death was found to be subdural hematoma secondary to hemorrhage due to blunt force trauma to the back of the head. From the facts supporting the charge, the accused suspected his wife might have cheated on him after he left her to go home as he dropped a customer only to arrive and find the deceased not yet home. Upon finding her still on the way, he attacked her and then forcefully dragged her like a sack of potatoes on the foot path to their house. Neighbours tried to intervene to no avail as he deceased went on assaulting the deceased. The deceased therefore must have died a very painful death. She did not deserve to die in the manner she did. Had the accused resorted to other channels of redress such as involving the clan elder or even the chief over any domestic/marital issues with his wife, then the death could have been avoided and that the deceased could be alive today. The pre-sentence report has clearly indicated that the accused has had a history of substance abuse which has actually contributed to the mental problems that he currently faces. The accused still requires to continue undergoing medication which can only be arranged and supervised by his family. The family has undertaken to supervise his medical requirements as well as have strict surveillance on him over the issue of drug abuse. The probation officer has recommended a non-custodial sentence (probation) for ease of supervision. Looking at the circumstances of this case, the accused requires to undergo medication which can only be supervised outside the prison facility. It is unfortunate that the deceased had to lose her life just because of the accused's dysfunctional social orientation brought about by prolonged abuse of drugs. I am satisfied that a non-custodial sentence as proposed in the pre-sentence report is appropriate in the circumstances.
  
6. In the result, the accused herein Samuel Ouma Sidandi is ordered to serve under probation for three years. While under probation, he shall adhere to the terms of probation and that in the event of default, the non-custodial sentence will be cancelled and that he shall be ordered to serve custodial sentence for the whole period regardless of any period so far served under probation.

**DATED AND DELIVERED AT SIAYA THIS 6<sup>TH</sup> DAY OF DECEMBER, 2024.**

**D.KEMEI**

**JUDGE**

In the presence of:

- Samuel Ouma Sidandi.....Accused
- Ooro .....for Accused
- Mocha.....for Prosecution
- Ogendo.....Court Assistant

