



**Republic v Njaramba (Criminal Case 9 of 2019)
[2021] KEHC 445 (KLR) (10 December 2021) (Ruling)**

Neutral citation: [2021] KEHC 445 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL CASE 9 OF 2019
A MSHILA, J
DECEMBER 10, 2021**

BETWEEN

REPUBLIC PROSECUTION

AND

DAVID NDEGWA NJARAMBA ACCUSED

RULING

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 dated 9/09/2021 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 of any kind.
3. The Accused was charged with having unlawfully killed Grace Wairimu Mwangi on the 12th day of February, 2019 at Ithekahuno area in Tetu Sub-County within Nyeri County. He was convicted on his own plea of 'Guilty' of the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code.
4. At the hearing hereof the accused was represented by Learned Counsel Mr. Kimunya whereas Mr. Magoma was the Prosecuting Counsel for the State. Both counsels were invited to make submissions before sentencing.
5. In mitigation Counsel for the accused submitted that the Accused had readily pleaded guilty and had saved the courts judicial time; that he was a first offender and was extremely remorseful for his actions.
6. The Accused had been remanded for a period of three (3) years and whilst in remand there were no cases of indiscipline and he had turned over a new leaf. He prayed for a lenient sentence and that the



court considers granting him a non-custodial sentence which would give him an opportunity to mend his ways; and also he was a young unmarried man at the time of his arrest and he was now desirous of starting a new family.

7. Prosecuting Counsel for the State submitted and confirmed that the accused was a first offender and that even if the accused had saved on the courts time he was not remorseful as he had not apologized for his actions. The Accused was praying for a lenient sentence yet a life was lost and that was not recoverable. It is biblical that one is not allowed to kill and David was never forgiven by God. There is a cry for justice for the deceased and prosecuting counsel for the State prayed for a deterrent sentence of twenty (20) years which would do justice for the deceased.

ANALYSIS

8. It is the duty of this court to impose a sentence that meets the facts and circumstances of the case. This court has taken into consideration the aggravating circumstances in the commission of the offence. The Accused used a deadly weapon namely a knife to inflict the fatal injuries on a helpless lady who lived alone. The unfortunate state of affairs resulted in a needless loss of a precious life and all the accused was after was the deceased's phone.
9. The mitigating factors taken into consideration by this court are that the Accused had readily confessed to having committed the offence and by accepting the Plea Bargain the Accused had indeed saved the court on judicial time. Also taken into consideration are the personal circumstances of the accused; that he was a youthful man and unmarried at the time of commission of the offence. He has also expressed his remorse and found to have no previous record and is deemed to be a first offender.
10. The offence of manslaughter is punishable by a maximum sentence of life imprisonment. However, the maximum sentence is usually reserved for the worst case scenario the applicable law on sentence 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. Based on the aggravating circumstances of the case in that the accused used a deadly weapon namely a knife to inflict the fatal injuries on a helpless lady which resulted in a needless loss of a precious life and all the accused was interested in was a cell phone. This court is not satisfied that the Accused is deserving of leniency nor a non-custodial sentence; and finds a custodial sentence of fifteen (15) years to be an appropriate sentence.
12. It is noted that the initial plea for murder was taken on 26/01/2019 and the plea bargain agreement was entered into on 9/09/2021 therefore the period spent in custody translates to approximately two (2) years and eight (8) months. This period can be taken into consideration and be deducted from his sentence.

FINDINGS & DETERMINATIONS

13. For the foregoing reasons this court makes the following findings and determinations.
14. A custodial sentence of fifteen (15) years imprisonment is found to be an appropriate sentence.
15. The period spent in remand to be reduced from the sentence.

Orders Accordingly.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NYERI THIS 10TH DAY OF DECEMBER, 2021.

HON. A. MSHILA



JUDGE

In the presence of;

Mwaniki for the State

Kimunya for the Accused

Accused present

Ndung'u-----Court Assistant

