



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CRIMINAL CASE NO.93 OF 2014

REPUBLIC.....RESPONDENT

VERSUS

AGNES CHERONO KEMOBI.....ACCUSED

JUDGMENT

1. The accused herein **AGNES CHERONO KEMBOI** entered into a plea agreement with the prosecution. The agreement dated 23/7/2021 was freely entered into and was admitted as part of the Court record herein.
2. Pursuant to the said plea agreement, the accused pleaded guilty for the offence of manslaughter under section 202 and 205 of the Penal Code.
3. The factual basis for the offence were as follows:

“On the night of 15/12/2014 at approximately 8.00 p.m the deceased was in the house of Magdaline Kobilu with Margaret Kobilu. They heard knocks on the door. When they went to check who was knocking the door they found that it was the accused. Magdaline had a torch and she knew the accused well as she was married in the area. They opened the door. The accused entered the house and hit the deceased with an object that was later ascertained to be a jembe. The deceased and Magdaline raised alarm for help.

The accused hit the deceased and said the deceased had befriended her husband and thereby destroyed her marriage. She pulled the deceased out of the house of Magdaline Kobilu and dumped her in a nearby millet farm and left. The assistant chief was informed of the incident and he visited the scene and arranged for the deceased to be taken to Chegilet Dispensary for treatment. Unfortunately she succumbed to her injuries. She died while undergoing treatment at the dispensary.

A post mortem was later done to establish the cause of death. The cause of death was excessive haemorrhage. The post mortem was done on 23/12/2014 at Iten County Hospital. The post mortem report was produced as prosecution exhibit No.1. The accused subsequently surrendered to the police and was accordingly charged with murder.

4. The prosecution submitted that the accused was a first offender with no previous record. The plea agreement recommended upto 10 years imprisonment or 2 years on probation.
5. On mitigation by Mr. Okara, it submitted that the accused was remorseful. She is 47 years and a single mother of 8 children who are dependent on her.
6. The Court ordered for a pre-sentence report which was filed on 22/9/2021. The report indicates that the victim’s family are still bitter.
7. I have considered the mitigation. The crime which was committed by accused is heinous. Accused may have been provoked by allegation that the deceased was having an affair with her husband. However, the accused had no right to kill the deceased on that ground. Nobody should take the law in their hands and get away with it. This Court must send a clear message that life is sacred, and anybody who takes away life shall be punished.
8. However, although the punishment for manslaughter is life in prison, I have accepted the mitigation by the accused’s counsel Mr. Okaro.
9. The upshot is that the accused is hereby jailed to serve a term of 10 years in prison from the date of arrest.

10. That is the Judgment of the Court.

SIGNED AND DATED IN ELDORET THIS 7TH DAY OF DECEMBER 2021.

E. K. OGOLA

JUDGE

DATED AND DELIVERED IN ELDORET THIS 8TH DAY OF DECEMBER 2021.

R. NYAKUNDI

JUDGE