



**Republic v Hassan (Criminal Case E007 of 2023)  
[2025] KEHC 13567 (KLR) (29 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13567 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
CRIMINAL CASE E007 OF 2023  
AN ONGERI, J  
SEPTEMBER 29, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**ADAN HASSAN ..... ACCUSED**

**JUDGMENT**

1. The Accused Person in this case, Adan Hassan was charged with murder contrary to Section 203 as read with Section 204 of the Penal Code.
2. The Accused Person entered into a plea bargain agreement which he signed on 26<sup>th</sup> June 2025 and the charge was reduced to manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
3. The particulars of the charge of manslaughter were that on the night of 2<sup>nd</sup> October 2023 at around 0200hours at Kenya Railways Staff Quarters in Voi Sub County within Taita Taveta County, the Accused Person murdered Habib Hassan Barre.
4. The facts of the case were that the Accused Person and the deceased Habib Hassan Barre were husband and wife.
5. On the 27<sup>th</sup> October 2023 at around 2:00a.m both the accused and deceased were quarreling in the presence of their first born child. The accused person tied the latter’s both hands with a rope against a chair. The accused person then took a wooden timber and started hitting the deceased until she fell down.
6. He then started stepping on her abdomen and later took a piece of clothing and used it to strangle the deceased until the passed out. He also ordered their first born child who witnessed the ordeal not to disclose the same to anyone or else the same shall be meted against him.



7. The accused person afterwards went out and reported to the neighbors that the deceased had collapsed and fallen down.
8. The post mortem revealed that the cause of death was asphyxia due to strangulation and mild head injury.
9. The crime scene was processed and one wooden timber and blue blood stained cloth were recovered and believed to be the murder weapons as confirmed by the first born son who was present during the commission of the offence.
10. The accused person was later arrested and charged with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code which has now been substituted to that of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
11. The Accused Person was convicted on his plea of guilty.
12. The Probation Officer filed a pre-sentence report dated 16<sup>th</sup> September 2025 in which he stated that the Accused Person comes from a polygamous family which is relatively stable economically.
13. The father of the Accused Person is a livestock farmer specializing in camel. The father separated with the Accused Person's mother but he has two other wives and 26 children in total.
14. The family does not have any criminal record. The Accused Person is 35 years old. He was born in Moyale in Marsabit County and grew up in Moyale and Wajir. He dropped from school in Form 2.
15. He later resided in Kericho where he did business before moving to Eastleigh where he met the deceased and they got married. They have three children.
16. The Learned Defence Counsel gave mitigation on behalf of the Accused Person and said that according to the presentence report, the Accused has anger issues and low self esteem.
17. He said the Accused Person is remorseful and he is seeking a non-custodial sentence.
18. The Learned Defence Counsel further said the family of the deceased and that of the Accused Person had entered into agreements and blood money had been paid under the Somali Custom of Masla.
19. He said under the said custom 50 camels are paid where the victim is a woman and 100 camels where the victim is a man.
20. The Learned Counsel further said there was already been an element of punishment by the Accused Person and his family in the payment of compensation and further that the two families had reconciled.
21. This court has taken into account the fact that the Accused Person pleaded guilty to the charge and saved the court's time.
22. This court has taken into account the mitigating circumstances of this case, especially the fact that the Accused Person is remorseful and that he has been in custody for a period of almost 2 years from 14<sup>th</sup> November 2023 when he was first arraigned in court.
23. However, the offence of manslaughter is a very serious one and the law provides for life imprisonment.
24. I have noted with concern the sentiments of the Learned Defence Counsel that the Accused Person's family has paid blood money and therefore the Accused ought to be released on a noncustodial sentence. That custom would be dangerous if it is in the basis of meting sentence.



25. The Probation Officer mentioned in the pre-sentence report that the deceased's family had accepted restitution efforts by the Accused Person's family.
26. The Accused Person killed his wife in full view of their first born child.
27. In determining an appropriate sentence, this court is guided by the principles set out in the Sentencing Policy Guidelines, 2023, and the Judiciary Sentencing Guidelines, which emphasize the objectives of retribution, deterrence, rehabilitation, and restoration.
28. I have considered the following Mitigating Factors presented by the Defence Counsel and outlined in the Pre-Sentence Report:
  - i. The Accused Person pleaded guilty at the earliest opportunity, thereby saving the court's precious time and expressing remorse for his actions.
  - ii. He is a first offender with no prior criminal record.
  - iii. He has demonstrated remorse for the killing of his wife.
  - iv. There has been a significant effort at restitution and reconciliation between the families of the Accused and the Deceased through the Somali custom of Maslaha, which involved the payment of 50 camels as blood money.
  - v. The family of the deceased has accepted this restitution, indicating a level of community-level forgiveness and a desire to avoid further conflict.
  - vi. The Accused Person has been in remand custody for a period of approximately two years since his arrest on 14<sup>th</sup> November 2023.
29. Against these mitigating factors, this court must weigh the profound Aggravating Factors of this case:
  - I. The nature and brutality of the offence are extreme. The deceased, who was the wife of the Accused, was subjected to a sustained and vicious attack. She was tied to a chair, beaten with a wooden timber, stomped on the abdomen, and finally strangled to death with a piece of clothing.
  - II. This was not a single, impulsive act but a series of violent actions leading to death.
  - III. The offence was committed in the sanctity of the marital home, a place where the victim was entitled to feel safest. The court views domestic violence resulting in death with the utmost seriousness.
  - IV. The offence was committed in the presence of the couple's young child. Subjecting a child to the trauma of witnessing the brutal murder of his own mother by his father is an egregious act that compounds the severity of the crime and will have lifelong psychological consequences for the child.
  - V. The Accused Person then attempted to conceal his crime by threatening the child into silence and falsely reporting to neighbors that the deceased had collapsed.
  - VI. The Post Mortem report confirms the violent cause of death as asphyxia due to strangulation.
30. Regarding the payment of blood money, while this court acknowledges its cultural significance and its role in promoting reconciliation between the two families, it must be stated unequivocally that no custom can absolve an individual of criminal responsibility for taking a life.



31. The state, in the name of the Republic, has an overriding duty to protect its citizens and punish those who commit serious crimes.
32. To treat the payment of blood money as a basis for a non-custodial sentence would be to suggest that wealth can purchase a license to kill, which is an affront to the principles of justice and the rule of law.
33. Its value in this sentencing exercise is limited to demonstrating the Accused's remorse and the community's stance on reconciliation, but it cannot eclipse the demand for public justice.
34. Having carefully balanced all these factors, and considering that the offence of Manslaughter carries a maximum sentence of life imprisonment, this court is of the firm view that a custodial sentence is not only warranted but necessary.
35. The mitigating factors, particularly the guilty plea and the period already spent in custody, will be taken into account to temper the length of the sentence.
36. The Accused person, Adan Hassan, is accordingly sentenced to twenty (20) years imprisonment for the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code,
37. Pursuant to Section 333(2) of the Criminal Procedure Code, the period of Two (2) Years that you have spent in remand custody shall be deducted from this sentence.
38. The sentence is deemed to have commenced today.
39. Right of appeal (14 days) explained.

**DATED, SIGNED AND DELIVERED THIS 29<sup>TH</sup> DAY OF SEPTEMBER 2025 VIRTUALLY VIA MICROSOFT TEAMS AT VOI HIGH COURT.**

**ASENATH ONGERI**

**JUDGE**

In the presence of:-

Court Assistant: Millicent/Mabishi

Mr. Mwanyumba for the Accused Person

The Accused Person present at Manyani GK Prison

