



**Republic v Chemtai (Criminal Case E003 of 2025)
[2025] KEHC 14107 (KLR) (8 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 14107 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPENGURIA
CRIMINAL CASE E003 OF 2025
RPV WENDOH, J
OCTOBER 8, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PAULINE CHEMTAI ACCUSED

SENTENCE

1. Pauline Chemtai, the accused herein, was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. She denied committing the offence.
2. Later on, the prosecution and defence entered into a plea bargain and on 28/7/2025, the parties arrived at an agreement wherein the charge of Murder was reduced to one of Manslaughter contrary to section 202 as read with section 205 of the Penal Code.
3. On 29/7/2025, the charge of Manslaughter contrary to section 202 as read with section 205 of the Penal Code was read to the accused to which she pleaded guilty and was convicted. She is now before this court for sentence.
4. The Prosecution did not have any previous criminal records in respect of the Accused and she was treated as a first offender.
5. Through her Counsel, Miss Chebet, the accused’s mitigation is that she is a young mother whose life has been shaped through hardship and trauma; that she grew up without knowing her parents, her birth mother having abandoned her to the grandmother at tender age and that the grandmother later passed on when the accused was only eight (8) years; That the accused was left to caregivers who did not provide proper care and was deprived her of guidance and direction; that on attaining maturity, she got into a relationship, got pregnant but the same did not go well as it was marred by domestic violence and abuse; that at the time of commission of the offence, she was under Psychological and



- emotional distress due to lack of care and love. The Counsel urged the court to give the accused non-custodial sentence.
6. Sentencing is an exercise of the court's discretion guided by *the Constitution*, the relevant laws on sentencing and the 2016 Judiciary of Kenya Sentencing Policy Guidelines. Despite the importance of the guidelines, sentencing remains the exercise of Judicial discretion as stated by the Supreme Court in Francis Karioko Muruatetu & Another -V- Republic (2017) eKLR. The court stated "(72) we wish to make it very clear that these guidelines in no way replace judicial discretion. They are advisory and not mandatory. They are geared to promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process".
 7. Page 15, paragraph 4.1 of the sentencing Policy Guidelines provides as follows:-
 - i. Retribution: to punish the offender for his/her criminal conduct in a just manner;
 - i. Deterrence; to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences;
 - iii. Rehabilitation; to enable the offender reform from his/her criminal disposition and become a law-abiding person;
 - iv. Restorative justice; to address the needs arising from the criminal conduct such as loss and damages;
 - v. Community Protection; to police the community by incapacitating the offender.
 - vi. Denunciation; to communicate the community's condemnation of the criminal conduct.
 - vii. Reconciliation; to mend the relationship between the offender the victim and the community
 - viii. Reintegration; To facilitate the re-entry of the offender into the society.
 8. In sentencing the court also considers various mitigating factors. (See Muruatetu Case)
 1. Age of the offender;
 2. Being a first offender;
 3. Whether the offender pleaded guilty;
 4. Character and record of the offender;
 5. Commission of the offence in response to gender-based violence;
 6. Remorsefulness of the offender;
 7. The possibility of reform and social re-adaptation of the offender;
 8. Any other factor that the court considers relevant.
 9. In this case, the probation officer prepared a presentence report after carrying out a comprehensive search on the accused's background i.e. the Local Administration, members of the community the deceased's father.
 10. As indicated by Counsel and the report, the accused does not have known family save for her late grandmother and an aunt. She lacked parental care, love and guidance and that she has lived a life of neglect, abuse and deprivation.



11. From the interview with the local Administration, because she has no stable or fixed abode and to keep her from abusing alcohol, it is better that she be confined to a place where she can get Counselling services and also improve on her practical skills. It has been noted the same had been commenced during her stay in custody.
12. The deceased was the appellants own child. The father of the deceased who was also not a responsible father is said to have forgiven the accused and he has moved on.
13. Despite the difficult life that the accused has lived and challenges she has faced, she must take the sanctity of life seriously and balancing all the factors considered above and that fact that she is a very young offender, the court sentences her to serve custodial sentence during which time she will undergo counselling and some vocational training so that she will earn some skills to take care of her needs in future.
14. Consequently, the accused is hereby sentenced to serve six (6) years imprisonment which sentence will run from 10/2/2025

This file is closed.

SENTENCE DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAPENGURIA THIS 8TH DAY OF OCTOBER, 2025.

R. WENDOH

JUDGE

In the Presence of:-

Accused – present

Ms. Chebet for accused.

Mr. Majale - Prosecution Counsel

Juma/ Hellen Court Assistants

