



**Republic v Mwake (Criminal Case 19 of 2019)  
[2025] KEHC 14027 (KLR) (6 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 14027 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
CRIMINAL CASE 19 OF 2019  
LN MUTENDE, J  
OCTOBER 6, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**MARYLINE NDUKU MWAKE ..... ACCUSED**

**SENTENCE**

1. Maryline Nduku Mwake, the Accused, faced the charge of Murder contrary to Section 203 as read with Section 204 of the Penal Code. Particulars being that on 15<sup>th</sup> October, 2019, at Kavilila in Subukia within Nakuru County, she murdered Haron Mutua Kiamba.
2. Subsequently, the plea bargain process was initiated by the defence counsel pursuant to Section 137C (1)(b) of the Criminal Procedure Code. In the result a plea agreement was executed by both the prosecutor and Accused person which culminated into the information being reduced to Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
3. Facts were that the Accused went to the thicket with the primary victim, her husband to cut some trees. While there the deceased who was agitated attempted to cut her. However, she pushed and assaulted him occasioning him injuries on the neck. She left the place and reported the incident to his parents as well as her parents then turned herself in to the police with the intervention of her parents.
4. The postmortem conducted by Dr. John Omedo established the cause of death as assault with a sharp object leading to injury to neurovascular bundle of the neck/spine.
5. Views of secondary victims were captured following a social inquiry conducted by the probation officer. The children of the Accused and deceased were found not going to school. Life was stated to have become unbearable hence desired to have their mother back home. Relatives from both paternal and maternal sides had rejected them.



6. A report filed by the Children's Officer Subukia confirmed that the three children of that marriage all girls aged between 17 years and 13 years had been rejected by both their maternal and paternal grandparents. They cannot go to school due to lack of necessary school requirements even just clothes and inner wears. They were traumatized, destitute and vulnerable to exploitation and abuse.
7. The community represented by the village elder Maina Ngunju, and Assistant Chief Stephen Muna blamed the committal of the offence to the cruelty the Accused was subjected to by the deceased, and she is not perceived as a threat to the community.
8. The Accused was stated to have experienced a lifestyle of violence by her father since childhood and later on the deceased her husband of 15 years similarly abused her such that she had scars on different parts of the body.
9. In mitigation, learned counsel Mr. Sigilai submits that the Accused who is a first offender is remorseful and has been mourning from the time of the incident. That she has a long history of being assaulted by the deceased using sharp objects. She has 5 wounds in her body one of which amounts to grievous harm. That on the fateful date, the deceased threatened to cut her neck which forced her to act in the endeavor to immobilize the aggressor that resulted into fatal injuries but was left with a wound on her face.
10. That the Accused was committed to her marriage. The children of the marriage have suffered the loss of their father; and, their mother due to legal process. That though amenable to the proposal of a probation sentence in the Pre-sentence report, they seek unconditional discharge which would help her go for counselling and healing.
11. The State through learned prosecution counsel Ms. Mumbembe relied on the Pre-sentence report.
12. I have taken into consideration facts of the case, recommendation by the Probation Officer, submissions in mitigation and the response thereto.
13. Section 205 of the Penal Code provides thus;

"Any person who commits the felony of manslaughter is liable to imprisonment for life."
14. In administering punishment, the primary objective of sentencing as provided by the Sentencing Policy Guidelines (2016) must be taken into account. These include deterring future offending, rehabilitation by facilitating the offender to ensure change of behavior so as to prevent future offences, and generally to protect the public. A sentence should be proportionate to the crime committed.
15. Right from the outset the Accused took responsibility of her actions. It is indicated that she regrets her action and seeks forgiveness.
16. In a similar matter, the State v Truphena Ndonga Aswani (2021) KEHC 8758 (KLR), Aburili J considering circumstances of the offence found domestic violence and trauma a significant aspect where the accused led a traumatic experience following domestic violence thereby sentencing the accused to a non-custodial sentence of one (1) day imprisonment.
17. From the foregoing, considering factors herein that led to the eventuality, I find a probation sentence being appropriate which will enable the Accused as well as her children to undergo counselling. In the circumstances, the Accused shall be under Probation supervision for a period of three (3) years.
18. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 6<sup>TH</sup> DAY OF OCTOBER, 2025.**



.....  
**L.N. MUTENDE**  
**JUDGE**

