



**Republic v Chesire (Criminal Case 19 of 2018)
[2025] KEHC 13620 (KLR) (2 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 13620 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL CASE 19 OF 2018
RB NGETICH, J
OCTOBER 2, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MUSA CHESIRE ACCUSED

SENTENCE

1. The accused Musa Chesire has been charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the charge were that the accused on the 14th day of October, 2018 at Illiagat trading centre, Tenges Location in Baringo Central Sub- County within Baringo County murdered Rhoda Cheronno Lelei.
2. The accused pleaded not guilty to the charge and the matter was heard to its logical conclusion and by judgement delivered on the 8th May, 2025 this Honourable court found the accused person guilty and convicted him of the offence of Murder contrary to section 203 as read with 204 of the penal code. Upon the conviction, the prosecution informed the court that the accused be treated as a first offender. The court directed that a pre-sentence report to be filed before mitigation.
3. The report was filed as directed. From the report, the accused is 45 years old and the 6th born son of Mr. Chebii Chesire and Turgor Chesire. His parents are deceased. He has 7 other siblings. The family is said to be cohesive and they are not only well knit but also live peacefully with the rest of the community members. Apart from the accused and two of his brothers who are said to abuse alcoholic, all other family members are said to be law abiding.
4. The accused dropped while in class two on his own volition. After school he assisted his parents in looking after the family livestock as well as farming. Despite his age, the accused is single and has no dependents. Until the time he was arrested for this offence, he was not a member of any religious group nor any formal social group. He claims to have associated with few friends whom they engaged in



gambling (playing cards) and taking local brew. Due to his low level of education, he had no marketable skills and therefore depended on casual job and farming in his family land.

5. The accused claims that the victim was his neighbor and he cannot tell under what circumstance that she died. He claims that after her death the community members arrested him on suspicion simply because they were neighbors and were suspected to be in relationship. He claims to have been arrested three days after her death. He is said to be a first offender. He does not have any known previous criminal records.
6. The accused totally denies that he committed the offence. Although the honorable court found him guilty of this offence, he still maintains that the community members arrested him for the offence he never committed. He is therefore not remorseful.
7. The accused's brother confirmed that the community is still very bitter with the accused. He says that prior to his arrest, he greatly indulged himself in drinking something that might have triggered him to committing the offence. The family feels that incase he is released at this time his life might be in danger. According to the brother none of the family members has ever visited him in prison for fear of retaliation by the victim's family. Due to the current harsh environment, the family is hesitant to recommend non-custodial sentence. The victim's family members are very bitter with the accused.
8. According to the local leaders interviewed, the community is very bitter with the accused. Despite having spent over six years in remand, members of the community have not forgotten of the incidence. Most of those interviewed claims that the victim was a well-known member of the community whom they had very high hopes in and they cannot understand why the accused decided to terminate her life. According to the area assistant chief the community members have threatened to teach him a lesson in case he is released. This was confirmed by his brother who claims that due to fear they have never visited him in prison.
9. That though the accused denies that they had a relationship, some of the community members claim that they were close friends. Until the time she met her death the victim was a teacher whom the family and the entire community had high hopes on. Her family members claim that her death was a big blow to not only the family but also the entire community. Being a single mother, her only child was left orphan and he is now a grade 8 student and Natok Junior secondary school at Emining. He is under custody of the aunt.
10. That although the accused has been in remand for over six years, the victim's family is still very bitter and are totally opposed to his prayer for non-custodial sentence. His family and the local leaders have expressed fear of his security in case he is released at this time. For the sake of harmony in the community and his own security, they hesitate to recommend non-custodial sentence. They recommend that the honorable court to deal with him otherwise.

Mitigation

11. On the 23rd July, 2025 when the matter came up for mitigation, Mr. Mbeche counsel for the accused mitigated on his behalf, he stated on behalf of the accused, they are appealing for leniency and that the 6 years the accused has been in custody be considered. He said that they pray for a non-custodial sentence.
12. Counsel submitted that the accused is single and he should be allowed an opportunity to interact with members of his family. That though the report indicates that the members of his family are fearful of the reaction from the community, the accused is willing if granted a short sentence to approach



the victim's family for reconciliation. That no one has visited him from his family and they have not approached the victim's family for reconciliation.

13. Ms. Kosgei the prosecution counsel mitigated on behalf of the state that the accused is still denying the offence even after being found guilty of the offence of murder and the victim's family is still bitter. She submitted that there was no attempt to compensate the family of the victim.
14. She submitted that life was lost and the only way for justice to be served, they pray that the sentence prescribed by the law be imposed. That they pray for a deterrent sentence.

Determination

15. Under section 204 of the Penal Code a person convicted of Murder is liable to a death sentence. Section 204 provides that:-

“ Any person who is convicted of murder shall be sentenced to death.”

16. I have considered the mitigation by the accused, the fact that he is an elderly man, and the fact that he is a first offender. I have also considered the pre-sentence report which is not favourable to the accused as the probation officer indicates that the accused is not suitable for a non-custodial sentence.
17. I bear in mind a number of things, as I mull over the sentence to impose. Firstly, a life was lost, in a manner that was fairly senseless. Secondly, the conduct of the accused which shows that he is not remorseful and does not reflect a person who had empathy for the deceased. The killing has to be atoned for and choices have consequences.
18. Upon considering the nature of the offence and the views given by the victim's family, accused's family and the community, I find that the accused deserves custodial sentence so as to served as a lesson to other would be offenders and also give opportunity to accused to reflect on his action which he is still denying and also give persons affected to heal and also feel that justice has been served by punishing the offender. I am therefore inclined to impose 20 years imprisonment.
19. Final Orders: -
 - a. Accused is hereby sentenced to 20 years imprisonment.
 - b. The period served by accused in remand to be computed in the sentence herein.
 - c. Right of appeal 14 days.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 2ND DAY OF OCTOBER, 2025.

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RACHEL NGETICH

JUDGE

In the presence of:

Ms. Claire for State.

Ms. Gitonga holding brief for Mr. Mbeche for Accused.

Accused present.

CA, Elvis.

