



**Republic v Kipruto & 2 others (Criminal Case 57 of 2023)
[2025] KEHC 13671 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13671 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE 57 OF 2023
RB NGETICH, J
OCTOBER 2, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

MAXWEL KIPRUTO 1ST ACCUSED

SIMON KIBET KIBOS ALIAS MUSTAFA ISMAIL ALI 2ND ACCUSED

BONENGRS KIPRUTO SALGONG ALIAS ABUBAKAR 3RD ACCUSED

RULING

1. The accused persons herein, namely Maxwel Kipruto (1st accused), Simon Kibet Kibos alias Mustafa Ismail Ali (2nd accused), and Bonengers Kipruto Salgong alias Abubakar (3rd accused), were jointly charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars were that on 2nd May 2015 at Perkerra River, Shauri Village, Koibatek Sub-county within Baringo County, jointly with others not before court, they murdered Edwin Khamala Barasa.
2. After a full trial, this Court on 22nd May 2025 found all the three accused persons guilty of the offence and accordingly convicted them under section 203 of the Penal Code.
3. The prosecution confirmed that the accused persons had no previous convictions and were to be treated as first offenders. The Court directed that pre-sentence reports be filed to guide mitigation and sentencing.

Pre-sentence Reports

1st Accused – Maxwel Kipruto

4. The 1st accused is the eldest in a family of six, raised in Chepkumia village. He is married with two children in secondary school. He worked at Karen Roses for six years prior to his arrest. He denies



involvement in the offence but expressed regret over the circumstances of the victim's death and prayed for leniency.

5. The victim's family indicated they have never been approached by the accused's family since the incident and sought a deterrent sentence.
6. The probation officer observed that while the accused had a generally good upbringing and his community considered him of good character, there has been no reconciliation. The officer concluded that the interests of justice favoured a custodial sentence.

2nd Accused – Simon Kibet Kibos alias Mustafa Ismail Ali

7. The 2nd accused lost both parents in childhood and was raised by an uncle who supported him and his sister. He dropped out of school in Class 3 and later engaged in small-scale trade before relocating to Eldama Ravine, where he was arrested. He is married with two children.
8. He denied committing the offence, did not express remorse, and maintained he was falsely implicated.
9. The victim's family demanded justice and a deterrent sentence. The probation officer noted that although his family environment could support reintegration, his lack of remorse and the victim family's trauma made a non-custodial sentence unsuitable.

3rd Accused – Bonengers Kipruto Salgong alias Abubakar

10. The 3rd accused, aged 40, comes from a stable family background. He is educated up to college level and worked as a journalist and later in telecommunications before his arrest.
11. He denied involvement in the murder, has not shown remorse and has been accused of having threatened the deceased's widow, forcing her to relocate for safety.
12. Community leaders and his own parents acknowledged his change in character and attributed it to negative influences. The probation officer reported that the 3rd accused faces hostility from his community and noted he is also facing another murder charge (HCCR E004/2025). A custodial sentence was strongly recommended.

Mitigation

13. On behalf of the 1st accused, Mr. Mbeche urged the Court to consider his youth at the time of arrest, his family responsibilities, and the ten years already spent in custody. He prayed for a non-custodial sentence.
14. On behalf of the 2nd accused, Mr. Chepkilot submitted that he too has been in remand for ten years, had a difficult upbringing, and has no prior criminal record. He asked the Court to treat the remand period as sufficient punishment.
15. On behalf of the 3rd accused, Mr. Chebii acknowledged that the pre-sentence report was unfavourable but urged the Court to consider his family obligations and time spent in custody, and prayed for leniency.
14. For the State, Ms. Omari submitted that the victim's family remains deeply traumatized, that the offence was committed in a brutal manner, and that no remorse or reconciliation has been shown by the accused persons. She urged the Court to impose a life sentence.



Determination

15. Section 204 of the Penal Code prescribes the death penalty for murder. However, the Supreme Court in Francis Karioko Muruatetu & Another v Republic [2017] eKLR held that the mandatory nature of the death penalty is unconstitutional, leaving sentencing to judicial discretion based on the circumstances of each case.
16. In exercising that discretion, I have considered the mitigation tendered, the personal circumstances of each accused, the pre-sentence reports, and the aggravating circumstances. I note in particular: All the accused are first offenders and relatively young. The 1st and 2nd accused have been in custody for about ten (10) years awaiting trial while the 3rd accused has been in custody for about 2 years. The deceased lost his life in violent circumstances, leaving behind a widow and family who continue to suffer trauma. None of the accused has demonstrated genuine remorse or sought reconciliation with the victim's family. The 3rd accused is alleged to have threatened the victim's widow and is facing another serious criminal charge.
17. The offence committed is grave and calls for a sentence that reflects the sanctity of life, the need for deterrence, and the interests of justice, while also acknowledging the mitigating factors.
18. Taking all these into account, I find that a determinate custodial term is appropriate in the circumstances.

Sentence

- a. The accused persons – Maxwel Kipruto, Simon Kibet Kibos alias Mustafa Ismail Ali, and Bonengers Kipruto Salgong alias Abubakar – to serve fifteen (15) years' imprisonment.
- b. The period served in remand to be computed in the sentence herein.

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. Omari for State.

Ms. Gitonga holding brief for Mr. Mbeche for Accused 1.

Mr. Chepkilot for Accused 2 absent.

Mr. Chebii for Accused 3 and holding brief for Mr. Chepkilot for Accused 2.

CA, Elvis.

