



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Ndigoya (Criminal Case E005 of 2024)
[2025] KEHC 15389 (KLR) (30 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 15389 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
CRIMINAL CASE E005 OF 2024
EM MURIITHI, J
OCTOBER 30, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

TITUS MUTHII NDIGOYA ACCUSED

SENTENCE

1. The accused was convicted for the offence of manslaughter contrary to section 202 as read with 205 of the Penal Code following a plea bargain agreement which commuted the initial charge of murder contrary to section 203 as read with 204 of the Penal Code. The particulars of the offence of Manslaughter were that on the 30th day of January 2024 at Mutuma Centre within Karaini location in Kirinyaga Central within Kirinyaga County unlawfully killed Cyrus Mwangi Ndinji.
2. The facts of the case which the accused voluntarily admitted are set out in paragraph 8 of the Plea Bargain Agreement as follows:

“8. Had the case gone to trial, the Prosecution would have presented evidence sufficient to prove the following facts beyond a reasonable doubt that:

Brief facts surrounding this case:

On 30th January 2024, the accused herein {Titus Muthii Ndigoya} and the deceased {Cyrus Mwangi Ndinji} were reveling at a club within Karaini Market christened [Stanford]. The accused has a wife who they had separated for close to one year and she was operating a grocery kiosk [Mutuma] center within Karaini Market which is a few meters from the club [Stanford].

The accused who had taken some bottles of keg beer at the [Stanford] club strolled out to the former estranged wife's kiosk where he embarked to



destroying the grocery. The deceased {Cyrus Mwangi Ndinji} who had also been drinking at the said club walked out and questioned the accused why he was ransacking the grocery but the accused told him to mind his business since the grocery belonged to his wife. An argument ensued which eventually escalated to a fist fight. The accused who unassumingly was carrying a knife, drew it and pointed to the accused before charging straight towards him in rage and stabbed him on the chest. The deceased collapsed while the accused kept telling him to stop having an affair with his estranged wife. By standers were stunned and reacted by charging towards the accused ready to lynch him but Pw-3 {Patrick Githinji Kinyua} arrived on time and snatched the knife from the accused. The crowd that had swelled kept charging and baying for the accused blood but the Police arrived on the nick of time and that saved him.

It is the evidence of Pw-1 {Patrick Thuita Njogu} that on 30th January 2024 at about 2130 hrs, he was at [Stanford] bar while taking a cup of keg beer when the accused went out and started destroying a kiosk. That he could see a chase between the accused and the deceased ensuing while accusing each other of love affair. That he witnessed the accused drawing a knife which he used to stab the deceased before he collapsed to the ground. All the while, the deceased was crying that the accused had stabbed him. That he rushed to call Pw-4 {Charles Githinji Munene} an uncle to the deceased informing him of what had transpired and he used his car to ferry the deceased to Hospital. That as they left to Hospital, the crowd was still baying for the accused blood.

Pw-2 {Pius Macharia Muriithi} states that he was drawn to the noise from outside the bar where he was and upon responding to see what was happening, he found the accused having been surrounded by a crowd that was accusing him of stabbing the deceased. That it was then that he advised the bar attendant to close shop and call it a day.

Pw-3 {Patrick Githinji Kinyua} corroborates Pw-2 that he was within the [Stanford] bar when some noise, commotion started and when he responded, he found the deceased lying down having been stabbed by the accused. That he was the one who snatched the knife from the accused and shortly the Police arrived and took charge of the situation.

Pw-4 {Charles Githinji Munene} states that he was called to ferry the deceased to Hospital since he operates a taxi within Karani area. He recalls meeting a crowd when he arrived at the scene where the deceased was. That since the deceased was badly wounded, he opted to have it handled by the Police who arrived there shortly and took the deceased since he was already dead.

Pw-5 {No 118818 PC Andrew Mutembei} was the investigating officer who recorded the statements and established that it was the accused {Cyrus Mwangi Ndinji} who assaulted the deceased on the 30th January 2024.

Dr. Karomo who performed the post mortem formed the opinion the cause of death was due to massive internal hemorrhage following a penetrating chest injury following an assault.”

3. In mitigation before the Court, the Accused urged that he had a family that depended on him and that he had been in custody for almost two years since 1422024.



4. In written Mitigation pre-recorded and filed by Counsel dated 25/11/2024, the accused pleaded as follows:

“Mitigation

Your Lordship, the accused prays that this honourable court do consider the following in mitigation;

1. That the accused is a 48 years old man.
2. That the accused has never been involved in any other criminal offence previously.
3. That the accused has three children and a wife.
4. That the accused is remorseful.
5. That the accused pleads for leniency.
6. The accused prays that this court gives him an opportunity to go back to the society and continue providing for his family.
7. That the accused regrets that the offence occurred and prays for pardon from court.
8. The accused promises that he shall be of good behavior and continue preaching peace to the community.

We are most obliged.

Dated at Kerugoya this 25th day of November 2024

Nyaga Gitari & Co.

Advocates For The Accused”

5. The Probation Officers presentence report dated 28/2/2025 found the accused unsuitable for non-custodial sentence as follows:

“Conclusion

Your lordship, the said, is a 48-year-old father of three. One has finished school and two who are still in school. He is remorseful and terms his actions not premeditated. He regrets that he was unable to control his anger as a result of alcohol intoxication which led into the heinous action. The family members of the victim interviewed objected to his release on non-custodial orders stating that they are yet to heal. His family members are ready to receive him back home and relocate him to a far place until the wounds of the secondary victims are healed. The area assistant chief termed the offender as a reserved man but gets agitated when intoxicated. The community did not object the offender being granted a non-custodial sentence.

Recommendation

Your Lordship, in view of the above, our office finds the offender not suitable for a non-custodial sentence and recommend that he is sentenced as per section 203 as read with section 204 of the Penal Code Cap 63 Laws of Kenya.



Sarah Njeri
Probation Officer,
Kerugoya Station.
28022025”

Determination of the appropriate Sentence

6. The peculiarities of this case is that the accused was armed with a knife when he went to destroy the grocery shop belonging to his estranged wife and when asked to stop by the deceased charged at, and fatally stabbed the deceased on the chest with the knife, while accusing the deceased of an affair with his estranged wife. The manslaughter element is only acceptable as there was evidence of intoxication which may have affected the accused ability form the specific mens rea for the offence of murder.
7. This is yet another Gender Based Violence case only now directed on both the spouse or former spouse or girlfriend as well as their friends or associates. The prevalence of Gender Based violence mainly by male perpetrators against their female spouses, girlfriends or their associates, calls for deterrent measures and rehabilitation through the reform of the accused persons which is only possible in the penal settings of the Prison with discipline, training and rehabilitative programmes will transform the perpetrators to be better persons for reintegration in the Society.
8. There are aggravating circumstances in this case that the accused was the aggressor in this case., when he went to destroy his estranged wife’s grocery shop prompting a quarrel with the deceased, and he was armed with a knife which he used t stab the deceased upon the altercation.
9. The Court considers a custodial sentence of imprisonment for eight (8) years to meet the justice of the case.
10. As the accuse has been in pre-trial detention since arraignment on 1422024, the sentence of imprisonment shall commence from that date in accordance with section 333(2) Proviso of the Criminal Procedure Code.

Appeal

11. In accordance with section 137L of the Criminal Procedure Code, the Accused under a plea bargain agreement may only appeal from the sentence for legality or severity, as follows:

“ 137L. Finality of judgement

- (1) Subject to subsection (2), the sentence passed by a court under this Part shall be final and no appeal shall lie therefrom except as to the extent or legality of the sentence imposed.
- (2) Notwithstanding subsection (1), the Director of Public Prosecutions, in the public interest and the orderly administration of justice, or the accused person, may apply to the court which passed the sentence to have the conviction and sentence procured pursuant to a plea agreement set aside on the grounds of fraud or misrepresentation.
- (3) Where a conviction or sentence has been set aside, under subsection (2), the provisions of section 137J shall apply mutatis mutandis.



[Act No. 11 of 2008, s. 3, Act No. 12 of 2012, Sch.]”

Orders

12. Accordingly, for the reasons set out above, the Court having convicted the accused for the offence of manslaughter contrary to section 202 as read with 2025 of the Penal Code now sentences the accused to serve imprisonment for eight (8) years.
13. As the accused has been in custody since arraignment on 1422024, the sentence of imprisonment or eight years shall commence of 1422024 in terms of section 333(2) Proviso of the Criminal Procedure Code
14. In terms of section 137L, having pleaded guilty under a plea bargain agreement to the offence of manslaughter contrary to section 202 as read with 205 of the Penal Code, the accused may only appeal from the sentence, as he may be advised by his Counsel.

Orders accordingly.

DATED AND DELIVERED THIS 30TH DAY OF OCTOBER 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Mamba for the DPP.

Mr. Nyaga Gitari for the Accused.

