



**Republic v Ndambuki (Criminal Case E018 of 2023)
[2025] KEHC 14783 (KLR) (23 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 14783 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL CASE E018 OF 2023
NIO ADAGI, J
OCTOBER 23, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PATRICK MUTAVI NDAMBUKI ACCUSED

SENTENCE

1. The accused Patrick Mutavi Ndambuki was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; upon a Plea Bargain Agreement being entered the charge was then reduced to manslaughter.
2. The Plea Bargain Agreement dated 16/07/2025 was adopted by the court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion.
3. The accused person was charged of having unlawfully killed Kennedy Mutinda Matuli on the 13/03/2023 at Kisiiki Sub-location, Mavoloni Location in Yatta Sub-County within Machakos County; On 29/07/2025, the accused was convicted on his own plea of 'Guilty' to the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
4. . At the hearing hereof the accused was at all times represented by Learned Counsel Mr. Langalanga whereas Ms. Agatha was the Prosecuting Counsel for the State; both counsel invited the court to consider the Plea Bargain Agreement, Article 157 of *the Constitution* on ADR and mitigation in passing sentence.
5. . The Plea Bargain Agreement shows that had the case gone for full trial, the Prosecution would have presented evidence sufficient to prove commission of murder herein by the accused person beyond reasonable doubt. On 24/03/2023, the accused person was arraigned in court for plea allegedly having



committed the offence herein. The hearing of this case was yet to take off and the accused through his counsel was at the earliest onset ready to have a plea of ‘Guilty’ entered for manslaughter.

6. The Amended Information dated 17/07/2025 containing the offence of Manslaughter was read over to the accused on 17/07/2025 for which he pleaded guilty. The Post Mortem examination of the deceased was conducted on 15/03/2023 and the Doctor formed the opinion that the deceased died due to intracranial haemorrhage and asphyxia. The accused was charged with murder which was later reduced to manslaughter through plea bargain negotiations.
7. . In mitigation counsel for the accused relied on the Plea Bargain Agreement dated 16/07/2025. He submitted that the accused who is 31 years is a first offender with no previous records, he is a young father to an infant child of 1 & ½ years. The accused gained courage to enter into plea bargain and has already paid the demands as requested by the deceased’s family. That the accused is an orphan who depended on his grandmother who is now deceased. That the accused is a teacher by profession who has to serve the nation and fend for his young family. The accused is remorseful. The two families and the community at large have forgiven him and are willing to receive him back to the society.
8. In the Plea bargain Agreement, counsel for the accused recommended unconditional release of the accused while the prosecution recommended non-custodial sentence of one (1) year.
9. The court called for the probation officer’s pre-sentence report. The same is dated 29/07/2025 and filed in court on the same date. The court has carefully read through and considered the contents of the said report which is positive towards the accused person.

Analysis

10. It is the duty of this court to impose a sentence that meets the facts and circumstances of the case; this court has considered the full circumstances of the offence which is contained in the Plea Bargain Agreement.
11. The applicable law on sentence for the offence of manslaughter is found under the provisions of Section 205 of the Penal Code which reads as follows;

‘Any person who commits the felony of manslaughter is liable to imprisonment for life’
12. The Section provides for the maximum sentence that is life imprisonment; this court has taken into consideration the aggravating circumstances in that the accused woke up the deceased and wrestled him down while demanding that his stolen items must be provided. The accused beat up the deceased using a wooden stick. He beat him on where the deceased got some injuries and couldn’t walk. The accused dragged the deceased while he continued beating him with a wooden stick. The accused later left him after having injured him all over his body. Later the accused tied the deceased at one of the posts within the compound. He tied the deceased on the neck using a sisal rope and tied his legs and hands to the post as well. The accused also tied the deceased’s penis which also got injured. The accused later cut the ropes and took the deceased to hospital with an allegation that the deceased had hang himself on a tree. The deceased was seen as unresponsive and pronounced dead. A report was made to the police by the accused himself alleging that the deceased had hanged himself. The police visited the scene and found the allegation made by the accused was not true. The police carried out their own investigations and found that the accused was to blame for the death due to heavy beating of the deceased. The Post Mortem was conducted and as a result of the examination, the doctor formed the opinion that the deceased died due to intracranial haemorrhage and asphyxia. Subsequently the accused was charged with the offence of murder which has now been substituted to manslaughter through plea bargain.



13. The courts are inclined to impose life imprisonment where a deadly weapon was used in committing the offence. The courts are gradually moving away from mandatory sentences and more weight is being given to mitigation and circumstances of the case.
14. The mitigating factors taken into consideration by this court are that the accused readily pleaded guilty and thus saved on judicial time; also taken into consideration are the personal circumstances of the accused that he has also expressed his remorse, he has honoured the compensation demand by the deceased family and is deemed to be a first offender.
15. The Accused, no doubt is now repentant having reflected on his rash action. This case however demonstrates inability to resolve disputes peacefully without allowed anger to take control.
16. Having considered the Probation Report, the accused's and victim's families' position in the matter, I am convinced that the accused ought be released unconditionally in order to encourage and mend the relationship between the families of the accused, the victim and the community.
17. In determining the appropriate sentence, the Judiciary sentencing policy guidelines are instructive. They are not elaborate as to sentences involving manslaughter, but they give a roadmap which courts ought to consider in coming up with an appropriate sentence.
18. The sentencing objectives in Kenya have been captured in the sentencing guidelines 2023 to be the following: -
 - a. Retribution: to punish the offender for his/her criminal conduct in a just manner.
 - b. Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.
 - c. Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.
 - d. Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.
 - e. Community protection: to protect the community by incapacitating the offender.
 - f. Denunciation: to communicate the community's condemnation of the criminal conduct.
 - g. Reconciliation: To mend the relationship between the offender, the victim and the community.
 - h. Reintegration: To facilitate the re-entry of the offender into the society.
19. I have considered the sentencing objectives in totality. The accused person is a young man with a whole life ahead of him. He requires reintegration and reconciliation through the help of his community to enable him manage anger issues.

Disposition

20. Having taken all factors into consideration, this court makes the following orders:
 - (i) The accused is convicted and sentenced on his own plea of guilty for the offence of Manslaughter;
 - (ii) The accused having managed to compensate the deceased's family as per their demands and having further performed the clan cleansing traditional rites as per the Kamba customs and



the two families having confirmed to have fully settled the matter as between themselves, there being no opposition to the unconditional release of the accused person, this court has no reason to go against the wishes of the two families in this matter and will proceed to order that the Accused person be discharged and set free of the charges herein.

(iii) This file is closed.

Orders Accordingly.

SENTENCE WRITTEN, DATED & SIGNED AT MACHAKOS THIS 23RD OCTOBER 2025

NOEL I. ADAGI

JUDGE

DELIVERED VIRTUALLY ON TEAMS AT MACHAKOS THIS 23RD OCTOBER 2025

In the presence of :-

Mr. Langalanga..... for Accused

Ms. Agatha..... for Prosecution

Milly..... Court Assistant

