



**Republic v Kipimbar & another (Criminal Case E050 of 2023)
[2025] KEHC 14873 (KLR) (16 October 2025) (Sentence)**

Neutral citation: [2025] KEHC 14873 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE E050 OF 2023
RB NGETICH, J
OCTOBER 16, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

CHRISTOPHER KIPIMBAR 1ST ACCUSED

JOSEPH CHERUIYOT 2ND ACCUSED

SENTENCE

1. The accused person Christopher Kipimbar and Joseph Cheruiyot were jointly charged with the offence of murder contrary to section 203 as read with section 204 of Penal Code.
2. Upon full trial, this court jointly convicted the accused persons of the offence of murder as charged. The prosecution informed court that the accused persons had no previous convictions and they should be treated as first offenders. The court called for presentence report and the matter was scheduled for sentence hearing on 18th September 2025.

Mitigation

(i) 1st Accused

3. Mr. Wanjir counsel for the 1st accused submitted that the 1st accused is a first offender; that he is remorseful and accept that the offence ought not to have happened. That at the time of the offence he was facing personal challenge including poverty and mental health issues. He submitted that accused 1 had learnt his lesson while in custody for 10 years and he has reflected on his actions and he is ready to reform. He prayed that the 1st accused be given a second chance. He further submitted that the 1st accused's surviving parent is very old and suffers from diabetes. He prayed that he be sentenced to the period he has already served in remand and if any other sentence is added, it be non-custodial so that



he can have an opportunity to take care of his ailing father and that he is willing to comply with any conditions the court may impose.

2nd Accused

4. Mr. Ngeno joined Mr. Miyianda who had been acting for 2nd accused at mitigation stage. Mr. Miyianda submitted that the 2nd accused is remorseful for the offence. That he is a married man and his family is depending on him. Counsel urged the court to treat him with leniency while passing sentence given the peculiar circumstances of this case.
5. In addition, Mr. Kipngeno submitted that the 2nd accused is a first offender and he is remorseful. That he has an elder brother Wilson Cheruiyot who is mentally ill and requires care and he depends on the 2nd accused. He further submitted that his mother is aged 95 years old and is not in good health. That the 2nd accused has 8 children 3 being in secondary schools and the rest in primary schools and one in nursery. He submits that the 2nd accused has reformed and undertake not to engage in illegal activities and that the entire family depend on him. He prayed for non-custodial sentence as custodial sentence will bring untold suffering to the family. That the death was an accident and it was not a vicious attack on the deceased nevertheless a life was lost and Accused 2 is remorseful and is willing to be placed under supervision of OCS Eldama Ravine. That the 2nd accused has demonstrated that he can abide by conditions given as he has complied with bond terms for the 2 years he has been out on bond.

Presentence Reports

1st Accused

6. From the pre-sentence report, the victim's family are not happy that they have been left without a father and the only brother to the deceased said the victim's son who is now deceased was also involved in the murder of the deceased.
7. The community expressed disappointment that the 1st accused could be hired to kill and said that he went to be paid after throwing the deceased's body in a cliff and that he was suspected when he went to ask someone on what he could do after killing. The local administrator said he was a good person prior to the incident but betrayed the community for being an accomplice. He said the 1st accused had been convicted in the year 2016 for being drunk and disorderly and was fined kshs 2000.

2nd Accused

8. From the report, the 2nd accused is 48 years old. He did not go beyond primary education. After doing KCPE, he started burning charcoal and keeping poultry until the time of his arrest. He is married with 8 children. He does not admit the charge and maintained that witnesses lied to court.
9. The 2nd accused's family are not happy with the 2nd accused's act and say the deceased was a father in-law to the 2nd accused. They pleaded with the court to give them time to reconcile.
10. The victim's family are not happy with the loss of the deceased. They say they were left without a father and that it is the 2nd accused and the deceased's son who is also deceased were mastermind of the offence. He said the 2nd accused was suspected when accused 1 approached someone to ask what he should do to someone who had killed. From the report, the community were angered upon learning that the 2nd accused conspired with his brother in-law who is deceased's son to kill the deceased and they wanted to deal with them.



11. The victim's family indicated that they have no room for reconciliation as they are still hurting. The local administrator confirmed that the victim's family are still hurting and they also stated that the community are still hostile towards the accused persons.

Determination

12. The offence of murder under Section 204 attracts death penalty. However mandatory nature of death penalty was declared unconstitutional by the supreme court in Muruateti and the court therefore has discretion to impose a lesser sentence depending on circumstances of each.
13. Article 28 of *the Constitution* guarantees the right to dignity, which informs proportionality in sentencing.
14. The Sentencing Policy Guidelines (2016) set out objectives of sentencing being deterrence, rehabilitation, retribution, restorative justice, and protection of the public.
15. While considering sentence to impose the court is required to consider the following factors: -
 - a. The nature and gravity of the offence;
 - b. The circumstances under which it was committed;
 - c. The character of the offender;
 - d. The victim's circumstances and impact;
 - e. The time already spent in custody.
16. In view of the above, I have considered circumstance surrounding the offence herein, mitigation of the accused persons through their counsels. I take note of the fact that the accused persons planned and executed death of the deceased. From evidence adduced, the accused persons were motivated by monetary gain. From the evidence and social inquiry report, the accused persons were hired to eliminate the deceased by the deceased's son who is also now deceased. What the motive it was wrong for the accused persons to be used to eliminate human being. The death was occasioned in a very inhuman way. In my view despite the mitigating factors given by counsels herein, the accused person should atone for the inhuman act committed an innocent victim. Their act is aggravated by attempts to conceal their heinous act. I am of the view that they deserve deterrent custodial sentence.
17. Sentence
 - a. Each accused to serve 20 years imprisonment.
 - b. Period spent by each accused person in custody to be computed in sentence as per section 333(2) CPC.
 - c. Right of appeal 14 days.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 16TH DAY OF OCTOBER, 2025.

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RACHEL NGETICH

JUDGE

In the presence of:



Ms. Omari for state

Mr. Wanjir for A1

Mr. Amutala H/B for Kipngeno for A2

CA, Momanyi.

