



**Republic v Abdinoor (Criminal Case E001 of 2023)
[2025] KEHC 16350 (KLR) (13 November 2025) (Sentence)**

Neutral citation: [2025] KEHC 16350 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MANDERA
CRIMINAL CASE E001 OF 2023
JN ONYIEGO, J
NOVEMBER 13, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

ISAR MOHAMUD ABDINOOR ACCUSED

SENTENCE

1. The accused person is charged with the offence of murder contrary to Section 203 as read out with Section 204 of the Penal Code. Particulars are that on or about 08.08.2023 at Corner B location in Mandera – East Sub County within Mandera County he murdered Maulid Abdirahman Hassan.
2. Having pleaded not guilty, the matter proceeded to full trial with the prosecution calling five (5) witnesses. Upon conclusion of the trial, accused was found guilty and convicted accordingly. The court then ordered for a pre-sentence report.
3. According to the pre-sentence report dated 13th November, 2025, the accused has not shown any remorse or acceptance of the responsibility of the offence and his attitude reflects a lack of regret and concern for the consequences of his actions. That the accused committed an offence which had a devastating impact on the victim’s family and wider community. That there is continued fear, bitterness and lack of reconciliation between the offender and his relatives and therefore custodial sentence is appropriate.
4. In mitigation, the accused person pleaded for leniency on grounds that; he is a first offender; he is a young person with no family; he is asthmatic; he has been in remand since August 2023; the deceased was his biological brother and when he committed the offence he was under the influence of alcohol and drugs.
5. On its part, prosecution urged that the accused person is not remorseful and that he deserves a custodial sentence commensurate with the offence committed.



6. It is trite law that sentencing is at the discretion of the trial court. See Kipkoech Kogo - vs - R. Eldoret Criminal Appeal No.253 of 2003 where the Court of Appeal stated thus;

“sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence, the sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these, the sentence itself is so excessive and therefore an error of principle must be interfered (see also Sayeka – vs- R. (1989 KLR 306)”

7. Similar position was stated by the court of appeal in Bernard Kimani Gacheru vs. Republic [2002] eKLR where it was stated that:

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist.”

8. It is however worth noting that in exercise of its discretion, a court is duty bound to take into consideration certain guiding principles interalia; the aggravating nature of the offence committed; the mitigating factors; pre-sentence report; previous criminal record of the accused; and victim impact assessment report. See judiciary sentencing policy guidelines clause 4.5 of 2023.

9. This court is pretty aware of the objectives of sentencing which are also captured in the judiciary sentencing policy guidelines clause 1.3.1 of 2023 as; retribution, deterrence, rehabilitation, restorative justice, community protection, denunciation, reconciliation and reintegration.

10. I have considered the circumstances under which the offence was committed, the pre-sentence report and the mitigation on record. However, considering the brutal manner in which the complainant was murdered, a deterrent sentence is necessary. Accused is not remorseful. The family members including the mother do not want him at home.

11. Taking into consideration the period the accused has spent in custody pending trial which is 2 1/2 years and that the accused person is young and a first offender, I find imprisonment term of 20 years sufficient. In imposing this sentence, I have already considered the period of 2 1/2 years already spent in remand custody.

ROA 14 days.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 13TH DAY OF NOVEMBER, 2025

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J. N. ONYIEGO

JUDGE

