



**Republic v Noor (Criminal Case E011 of 2023)  
[2025] KEHC 16066 (KLR) (7 November 2025) (Sentence)**

Neutral citation: [2025] KEHC 16066 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT GARISSA  
CRIMINAL CASE E011 OF 2023  
JN ONYIEGO, J  
NOVEMBER 7, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**MOHAMED ABDULLAHI NOOR ..... 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. The particulars are that on 11.09.2023, at Dasheq in Tarbaj Sub County within Wajir County he unlawfully murdered Saadiya Adow Alasow.
2. Having pleaded not guilty to the charge, prosecution called a total of nine (9) witnesses in its endeavor to prove its case. When the accused was placed on his defence, he tendered a sworn testimony without calling any witness. Upon close of the defence case, the court delivered its judgment thus convicting the accused of the offence charged. Subsequently, the court ordered for a pre-sentence report.
3. According to the pre-sentence report filed in court on 06.11.2025, accused is not suitable for non-custodial sentence. The report described the accused as a middle aged man at the age of 42 years; married and a father of eight children some of whom are of school going age; has a good reputation in prison; has never been out on bond since his arrest; he is remorseful and has sought for forgiveness from the victim's family through his family.
4. The victim's family were saddened by the incident and have not fully healed and need time to come to terms with the incident. Although reconciliation was done and compensated agreed upon, they are still hostile to the offender.
5. In mitigation, counsel for the accused adopted the report of the probation officer. Because of the volatile hostility on the ground, the court was urged to consider a lenient custodial sentence on grounds that accused has been in custody and he has learnt a lot while in custody.



6. It is trite 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, unfavourable pre-sentence report and the mitigation on record. The factors that led to accused committing the offence was lack of self-control, lack of alternative dispute resolution mechanism and self-gratification on the part of the accused.

11. However, life was lost in circumstances which would have been resolved amicably without resulting to violence. In the circumstances, accused is sentenced to 15 years imprisonment. In imposing this sentence, I have taken into account the period spent in remand custody translating to two years and the fact that the victim’s family has been compensated.

ROA 14 days.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 7<sup>H</sup> DAY OF NOVEMBER 2025**

.....  
**J. N. ONYIEGO**  
**JUDGE**

