



**Republic v Omusi (Criminal Case 23 of 2023)  
[2025] KEHC 17608 (KLR) (27 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 17608 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIBERA  
CRIMINAL CASE 23 OF 2023  
DR KAVEDZA, J  
NOVEMBER 27, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**NEHEMIAH OLANGI OMUSI ..... ACCUSED**

**JUDGMENT**

1. The accused Nehemiah Olangi Omusi was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, cap 63 laws of Kenya. The particulars are that on 6<sup>th</sup> December 2018 at about 6PM at Kibera Lindi slums in Nairobi, within Nairobi County murdered Kelvin Etemesi Musula. The accused pleaded not guilty to the charge.
2. However, following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter contrary to section 202 as read with section 205 of the Penal Code. He signed a plea agreement on 6<sup>th</sup> June 2025. The accused was therefore charged with the offence of manslaughter contrary to section 205 of the Penal Code cap 63 Laws of Kenya.
3. The brief facts, as agreed in the plea arrangement, disclose that on the evening of 6<sup>th</sup> December 2018 at about 6.00 pm, the deceased, Kelvin Etemesi Omutula, left his house within the Lindi area of Kibera in the company of his wife, Leah Boliro, to purchase supper from a nearby kiosk. On their way back, Leah met an old friend, Mary, and stopped briefly to converse with her as the deceased stood a short distance away.
4. During this interaction, Leah noticed her former husband, the accused, approaching in the company of his two brothers and several other men unknown to her. The accused advanced towards the deceased, tapped him, and confronted him, demanding to know why he was in the company of his former wife. He then drew a knife from his waist and stabbed the deceased on both sides of the chest. The deceased was heard to ask, “Shida ni nini?” moments before he collapsed.



5. Members of the public rushed to the scene, assaulted the accused, and he fled. The deceased was rushed to Royal Clinic and later referred to Mbagathi Hospital, and subsequently to Kenyatta National Hospital due to the severity of his injuries. He succumbed later that night at about 11.30 pm while undergoing treatment. His body was taken to the KNH Farewell Home.
6. The following day, Leah reported the incident at the KNH Police Post and led officers to the scene, where a bloodstained kitchen knife with a blue handle was recovered from a trench. Police also confirmed that the accused was admitted at KNH under guard due to injuries sustained from mob justice. A post-mortem conducted on 11<sup>th</sup> December 2018 concluded that death resulted from haemorrhagic shock due to stab wounds to the chest. Upon recovery, the accused was discharged and later presented before the High Court on 16<sup>th</sup> January 2019. The Accused was subjected to a mental examination at Mathari Hospital on 4<sup>th</sup> February 2019 and was certified mentally fit to stand trial.
7. Upon reading the facts to the accused and after confirming that the plea-bargaining process was voluntary, that, the accused's constitutional rights had not been violated during the negotiation process, and further that he was not coerced, the court accepted the plea agreement and convicted the accused accordingly.
8. In mitigation, Ms. Nambala submitted that the accused is remorseful and deeply apologetic to the deceased's family. He is a first offender who has spent six years and ten months in custody and has demonstrated marked reform. Counsel relied on prison recommendation letters and certificates showing participation in counselling, anger management, spiritual guidance, and educational programmes. He serves on the prison counselling team, has shown good discipline, and has strong family and community support. It was further submitted that the offence arose from a love triangle and that the probation officer found him suitable for a non-custodial sentence.
9. In opposition, Ms. Maina submitted that although there was a plea bargain, the accused has not fully accepted responsibility and continues to shift blame to the deceased. She emphasised the cruelty of the fatal chest stab wounds, the prolonged suffering of the deceased, and the lasting financial and emotional harm to the family. The prosecution opposed a non-custodial sentence.
10. The pre-sentence report on record indicates that the accused is unmarried, has no dependants. He pleaded guilty, admitted responsibility, and expressed remorse, contending that the offence arose from self-defence. His family spoke positively of his prior character and urged the court to exercise leniency, affirming their willingness to support his reintegration.
11. Conversely, the victim's family detailed profound psychological, emotional, physical, and financial harm arising from the loss of their son, provider, and father. While some sought the maximum sentence, the victim's mother proposed restitution in the form of land purchase and education support for the deceased's child.
12. Community views from both Lindi, Kibera and Emmukunzi Village described the accused as previously well-behaved, with no known criminal history, and raised no objection to a non-custodial sentence. However, the offence arose from a volatile love triangle involving the accused, the deceased, and Leah Boliro, who continues to live in fear and strongly opposes the offender's release.
13. The penal section for the offence of manslaughter is contained in section 205 of the Penal Code which provides: -  
Any person who commits the felony of manslaughter is liable to imprisonment for life.



14. The court of Appeal in *Thomas Mwambu Wenyi v Republic* (2017) eKLR cited the decision of the Supreme Court of India in *Alistar Anthony Pereira v State of Maharashtra* at paragraph 70-71 where the court held as follows on sentencing:

“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. the courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the court must keep in mind the gravity of the crime, motive for the crime nature of the offence and all other attendance circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence, As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the crime doer. The court has to take into consideration all aspects including Social interest and consciousness of the society for award of appropriate sentence”

15. I have considered the gravity of the offence, the sentencing objectives of proportionality, deterrence and rehabilitation, together with the mitigation tendered and the views of the victim’s family.
16. From the record, the deceased suffered fatal stab wounds to the chest after being confronted by the offender in the presence of members of the public. The attack was sudden, vicious and fuelled by jealousy arising from a love triangle. The deceased was unarmed and posed no immediate threat. His death has occasioned deep and lasting emotional, psychological and financial hardship to his family, who lost a father and provider.
17. The court must consider the seriousness of the offence and uphold the sanctity of human life. Although the plea agreement reducing the charge to manslaughter, the offender’s remorse, and his efforts at rehabilitation are relevant mitigating factors, they do not outweigh the needless loss of life caused by the unlawful use of a lethal weapon in a moment of rage. The victim’s family continues to grieve and has strongly opposed a non-custodial sentence.
18. In the circumstances, a custodial sentence is necessary to meet the ends of justice, serve the purpose of deterrence, and allow for structured rehabilitation. A non-custodial sentence would trivialise the gravity of the offence and undermine public confidence in the administration of justice.
19. Consequently, the accused is hereby sentenced to serve fifteen (15) years’ imprisonment, the sentence to run from the date of his arrest, pursuant to section 333(2) of the Criminal Procedure Code.

Orders accordingly.

**JUDGEMENT DATED AND DELIVERED VIRTUALLY THIS 27<sup>TH</sup> DAY OF NOVEMBER 2025**

**D. KAVEDZA**

**JUDGE**

In the presence of:

Ms. Timoi for the Prosecution

Ms. Nambala for the Accused

Karimi Court Assistant.

