

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT EMBU**  
**(CORAM: R. MWONGO, J.)**  
**CRIMINAL CASE NO. E002 OF 2025**

REPUBLIC .....PROSECUTION

**VERSUS**

SILVESTER KINYUA MUNYI.....ACCUSED

**JUDGMENT ON SENTENCING**

**The Charge**

1. The accused was charged with murder contrary to Section 203 as read together with Section 204 of the Penal Code. The particulars of the offence are that on 21<sup>st</sup> December 2024 at Kanduri village in Kanduri Location in Embu East subcounty within Embu County, the accused murdered Consolata Kiringa Munyi.
2. The accused pleaded not guilty and the plea was duly entered.

**Plea-Bargaining Agreement (PBA)**

3. At the point of pretrial, the parties entered into a Plea-Bargaining Agreement dated 19<sup>th</sup> May 2025 signed by the accused, his advocate and the prosecution counsel. The accused pleaded guilty to the offence of manslaughter contrary to section 202 as read with 205 of the Penal Code. The PBA was availed in court together with court's compliance form for recording the plea agreement and the summary of facts sheet by the Prosecution.
4. The court was satisfied that the accused person understood his rights under section 137F of the Criminal Procedure Code before entering into the PBA having signed an acknowledgment thereof. Consequently, the Plea Agreement was adopted as part of the court record.
5. Accordingly, the accused person was convicted with the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. Under Section 205 of the Penal Code, the punishment for Manslaughter is imprisonment for life.

## **Mitigation**

6. In mitigation, the accused person stated that he is 45 years old and his wife is completely blind. The burden of caring for his children rests on him. He stated that he is remorseful and he has expressed his remorse several times since the offence occurred. He asked the court to exercise leniency in sentencing since 80% of the victim's family has already forgiven him.

## **Response to Mitigation**

7. In response to mitigation, the prosecution stated that the deceased is the accused's mother who met her death following an argument with the accused over table salt. That the accused has maintained his innocence and he is not remorseful at all. It stated that the family of the deceased is still agonizing over the loss of the deceased who was the pillar of their home. They consider the accused to be a threat to them. The prosecution prayed for a 30 years imprisonment sentence to serve as retribution.

## **The Probation Officer's Pre-Sentence Report (POR)**

8. According to the Probation Officer's Report dated 18<sup>th</sup> July 2025, the accused person has always displayed violent tendencies towards his family. It disclosed that his wife is estranged and he is known to have assaulted her leading to the injuries that caused her blindness. That he is not remorseful for the offence and maintains his innocence. The report recommended a custodial sentence.

## **The Facts**

9. The facts of the case are as follows:

- a) On 21<sup>st</sup> December, 2024 the deceased who was the accused person's mother was at home when the accused person came home drunk. He went to his house which neighbours the deceased's house and found his table salt missing. He then went to the deceased's house where he found his father (PW1) and the deceased, his mother. The accused person then asked the deceased why she had taken his table salt. The deceased told the accused person that she had not taken his table salt as she had her own.
- b) Angered by the deceased's response, the accused person went back to his house and came back armed with a panga. He mercilessly

hacked the deceased on the right side of her head and went away. The deceased fell down and started bleeding profusely. The accused person's father then started screaming and neighbours came including the area Chief and Nyumba Kumi elders. They then called police officers from Nthagaiya Police Station who came and recovered the blood-stained murder weapon from the accused person's house.

- c) The crime scene was processed by DCI officers from Embu East Sub County and the body removed to Kyeni Hospital Mortuary. On 30<sup>th</sup> December, 2024 in the presence of Virginia Muthoni and Nancy Wanjovi Munyi a Post Mortem of the deceased was conducted at Embu Level V Hospital Mortuary by Dr. Mwaniki Job who formed the opinion that the cause of death was traumatic head injury following attack with a sharp object.
- d) The accused person was also examined by Dr. Joseph Thuo, Consultant Psychiatrist at Embu Level V Hospital, who found him fit to stand trial. The accused person was then charged with the offence of Murder, which has now been reduced to Manslaughter.

### **Analysis and Determination**

10. The court in this matter is guided by the provisions of the Judiciary Sentencing Policy Guidelines 2023 as amended following the direction of the Supreme Court in the case of **Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae) (Petition 15 & 16 of 2015 (Consolidated)) [2017] KESC 2 (KLR) (Muruatetu 1)**.
11. Under section 205 of the Penal Code, the accused is liable to face a punishment of life imprisonment. In April 2025, the Supreme Court found life imprisonment sentence to be lawful and applicable. This was the finding in the cases of **Republic v Ayako (Petition E002 of 2024) [2025] KESC 20 (KLR) (Ayako case)** and **Republic v Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR) (Manyeso case)** where it was held that only Parliament bears the power to revise a sentence prescribed under a statute.
12. Despite this, the court must exercise its discretion given the circumstances of the case. The deceased and the accused are mother and son. The circumstances leading to the death of the deceased are that the accused found his table salt

missing and he confronted his mother about it. His mother denied having taken the table salt from the accused's house. Nevertheless, he still violently hacked her with a panga on the head, causing her death. This is a death that could have been avoided but it occurred because the accused either through anger or malice chose to cause it.

13. The POR indicates that the deceased is known to exhibit violent tendencies and this is seemingly the reason why his wife left after he inflicted injuries on her that led to her blindness. The POR indicated that a part of the family supported a non-custodial sentence while the other part of the family sees the accused as a threat to his remaining parent who is also elderly and at a risk of being injured or killed by the accused. These divergent views of the family of the deceased must be considered by the court and a balance stricken.
14. The prosecution recommended a sentence of 30 years imprisonment as a deterrence while the accused has prayed for leniency. In mitigation, the accused expressed remorse but the POR indicates that he is not remorseful. The deceased was 70 years old at the time of her death. In the case of **Republic v Reuben [2025] KEHC 11482 (KLR)**, the court sentenced the accused person to 40 years imprisonment for killing a 24-year-old who was his estranged lover.

### **Arrest of Judgment**

15. When the judgment was ready for delivery on 29<sup>th</sup> October, 2025, the defence counsel sought arrest of the Judgment on grounds that there were new issues which the victims wanted taken into account. The family was present and confirmed that certain issues were under discussion.
16. By consent it was agreed that the Judgement be arrested. The Court then directed that: a fresh Social Inquiry Report be availed within 14 days; that any new circumstances be highlighted; and that the DPP would have the right to review the Report and make submissions thereon.
17. The Social Inquiry Report was filed on 12/11/2025, in which it was noted that the victim's family (the Accused's grandfather and siblings) had forgiven the accused, as had the community and that the Accused's wife, not being able to support their children, they all sought that the accused be released to provide for them.
18. The Social Inquiry Report dated 12/11/2025 concluded that the accused's children's welfare is best safeguarded with the help of their father (accused); that

the family had approached the community to seek forgiveness for the offender's action; and that the accused be given an opportunity for rehabilitation within the community on condition that he assumes full parental responsibilities and desists from previous negative conduct.

19. The Report recommended that the accused be given a 3-year probation order subject to bi-weekly supervision at Maranga Asst Chiefs office; with the family aiding and supporting supervision.
20. The DPP noted that the Social Inquiry Report was a complete departure from the previous report. Consequently, the Court ordered the victim's family to present itself in Court.
21. On 26/11/2025 the victim's family were present in Court, as follows:
  1. Emilio Munyi - Accused's father (Deceased's husband)
  2. Millicent Mwende
  3. Purity Wanjiru
  4. Anthony Mukundi
  5. Catherine Munyi - Accused's sister
  6. Peter Njagi - Accused's brother

Speaking in Kiambu through Court Interpreter Sylvia (Court Assistant), they each confirmed that they had forgiven the accused; that they were interviewed by the Probation Officer and the latter Probation Report was accurate; and that they had all unanimously agreed that the accused be released to them so that he can take care of his children and the family.

22. The Court has considered all the information availed before it. This is a rare, maybe miraculous, situation where an accused person, having killed a member of his own family, obtains full forgiveness from them and the community and gets a second chance at life.

### **Disposition**

23. The Court is prepared to give the accused and the victims the opportunity they so desire as stated in the Social Inquiry Report within certain prescriptions as follows:
24. The Court hereby sentences the accused to a 15 years imprisonment sentence which shall stand suspended upon the following conditions:

- a) The sentence shall commence on the date of the accused's first incarceration on remand.
- b) The accused shall with effect from 3<sup>rd</sup> December, 2025, and during the pendency of the suspended sentence, commence to serve a 3 years' non-custodial community service at Maranga Assistant Chief's Office under supervision and direction of the Assistant Chief assisted by the Probation Officer.
- c) The accused shall be chiefly responsible for the maintenance of his biological family and provide them parental support. He shall also attend counselling as may be directed by the Probation Officer.
- d) Should the accused fail to comply with any orders of the Probation Officer, the sentence herein may be reviewed.
- e) In the event of the accused falling afoul of the law and being convicted for any offence during the suspended sentence period, the suspended sentence shall attach and the accused shall be brought before the Court for confirmation of the said sentence on review, either upwards or downwards, depending on the circumstances then pertaining.

25. It is so ordered.

**Delivered, dated and signed at Embu High Court this 27<sup>th</sup> day of November, 2025.**

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**R. MWONGO  
JUDGE**

**Delivered in the presence of:**

1. Accused present in Court
2. Nyawira for Accused
3. Ms. Nyika for the state
4. Francis Munyao - Court Assistant