

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**  
**CRIMINAL CASE NO. E031 OF 2023**

**REPUBLIC**  
**-VERSUS-**

**STEPHEN NGOVU KALOKI.....ACCUSED**

**SENTENCING**

1. The accused **Stephen Ngovu Kaloki** was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; The particulars of the offence are that on the 12<sup>th</sup> day of November 2024 at Kyanzau Sub-location, Kimutwa Location in Kalama Sub-county within Machakos County, jointly with others not before court murdered **JOSEPH MUNYAO KALOKI**.
2. The Accused took plea on 10<sup>th</sup> October, 2024 and he pleaded not guilty. The case was mentioned on 20<sup>th</sup> January, 2025 when a Pre-bail report dated 16<sup>th</sup> January 2025 was filed in court and which was positive on the Accused being granted bond/bail. The Accused was thus granted bail.
3. The case went to pre-trial on 13<sup>th</sup> February 2025 when Counsel for the Accused sought to be reserved with a legible copy of the Post Mortem and hearing date was set for 25<sup>th</sup> March 2025.
4. When the case came up for hearing on 25<sup>th</sup> March 2025, the Prosecutor informed court that their office had received a letter from the family of the Accused seeking for plea bargain. The case was consequently adjourned to allow the parties time to plea bargain and file a plea agreement.
5. A Plea Agreement dated 19<sup>th</sup> November, 2025 was filed in court on the same date. The court after interviewing the Accused was satisfied that he had understood the legal process of plea negotiation and had executed the Agreement voluntarily. The court accepted the Plea Agreement.
6. Facts of the case are that on 12<sup>th</sup> November 2024, the OCS of Konza police station instructed officers from Mulaani police post to proceed to Kyanzau village where she had been informed a suspect who murdered the deceased **Joseph Munyao Kaloki** had been arrested by members of the public. The OCS told the officers that the call had come from the suspect's brother and the suspect was **Stephen Ngovu kaloki**. The police officers arrived at the scene and found a huge crowd of people and the deceased had been subdued and his hands tied from behind and his legs too were

tied but he appeared injured since he was bleeding from the mouth. Among the crowd was the Accused person. The police officers advised the Accused to take the deceased to hospital for treatment as they would not re-arrest him in the condition. On 13th November 2024, the deceased was admitted at Machakos Level 5 hospital but he succumbed while undergoing treatment. Investigations were commenced and it was found that the deceased had a quarrel with his mother and thereafter went to the nearby shop where he demanded to be given goods alleging that the Accused had sent Kshs.150/= which was false since the shopkeeper called the Accused and he denied sending any money. It was also revealed that the deceased was a habitual thief and at times stole farm produce and when asked by his mother who he stayed with at home he turned to threaten her. The rest of the family work away from the home stead where the mother stayed with the deceased. On that particular day, on 20<sup>th</sup> November 2024, the issue with the deceased was reported to the accused and on learning that the deceased was creating disturbance, he travelled with his friends with a sole purpose to apprehend the deceased. On arrival, they found the deceased at the shopping centre where they tried to arrest him and when he resisted members of the public intervened and a beating of the deceased ensued where some used sticks and blows and punches with their fists. It was also noted by the witnesses that the Accused assaulted the deceased as well. The through the Accused tied the deceased and the Accused informed the OCS Konza.

7. A post mortem was conducted on 19th November 2024 and as a result of the examination, the Doctor formed the opinion that the cause of death was head injury secondary to blunt force trauma consistent with physical assault.
8. Subsequently, the Accused was charged with the offence of murder which has now been substituted to manslaughter through plea bargain.
9. The Accused then took plea on the substituted charge of manslaughter on 20<sup>th</sup> November, 2025. He pleaded guilty and the court entered a plea of guilty.
10. Prior to sentencing hearing on 20<sup>th</sup> November, 2025, Mr. Muli learned defence counsel submitted in mitigation that the Accused person is remorseful on the activities of 12th November 2024 which led to the demise of the deceased. The Accused is a first offender with no previous records of crime. That the clan of the Accused and deceased were in process of compensating the deceased's family. The Accused is a family man with a young family and is the sole bread winner. He provides for his aged parents too. The Accused has saved the precious judicial time and resources by

pleading guilty. Counsel asked the court to discharge the Accused unconditionally.

11. Also present in court was the deceased's mother **Angelina Kalochi Kyanza** who informed court that her son (deceased) died from mob justice. The clan to which both the Accused and deceased families belong had intervened and asked the two families to amicably reconcile. She stated that the Accused was like her son and prayed that the court forgives him as she and her family had forgiven him and agreed to live in peace and harmony. She stated that putting the Accused in jail will be going against what they had agreed as families to forgive the Accused.
12. The Prosecution Counsel, Ms. Agatha Abang appreciated the efforts of both families to resolve the matter amicably.
13. On her part the Learned Prosecution Counsel while admitting that the Accused saved State resources by Plea Bargaining and was a first offender, rooted for a non-custodial sentence of one (1) year at sentencing.
14. The Accused and his counsel recommended for unconditional discharge of the Accused.
15. The sentencing objectives in Kenya have been captured in the sentencing guidelines 2023 to be the following: -
  - a. *Retribution: to punish the offender for his/her criminal conduct in a just manner.*
  - b. *Deterrence: to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.*
  - c. *Rehabilitation: to enable the offender reform from his/her criminal disposition and become a law-abiding person.*
  - d. *Restorative justice: to address the needs arising from the criminal conduct such as loss and damages.*
  - e. *Community protection: to protect the community by incapacitating the offender.*

*f. Denunciation: to communicate the community's condemnation of the criminal conduct.*

*g. Reconciliation: To mend the relationship between the offender, the victim and the community.*

*h. Reintegration: To facilitate the re-entry of the offender into the society.*

16. I have considered the sentencing objectives in totality. The accused person is a young man with a whole life ahead of him. He requires reconciliation through the help of his community to enable him mend the relationship between him, the deceased's family and the community at large.
17. I have considered the submission that the Accused was remorseful and has been forgiven by both his family and that of the Accused.
18. The deceased's mother was categorical that the Accused was like her son and prayed that the court forgives him as she and her family had forgiven him and agreed to live in peace and harmony. She stated that putting the Accused in jail will be going against what they had agreed as families to forgive the Accused.

### **Disposition**

20. Having taken all factors into consideration, this court makes the following orders:
  - (i) The accused is convicted and sentenced on his own plea of guilty for the offence of Manslaughter;
  - (ii) The accused having been forgiven by his family, the deceased's family and his community and the deceased's mother having pleaded with the court not to jail the Accused, this court has no reason to go against the wishes of the two families in this matter and will proceed to order that the Accused person be unconditionally discharged and set free of the charges herein.
  - (iii) This file is closed.

Orders Accordingly.

SENTENCE WRITTEN, DATED & SIGNED AT MACHAKOS THIS 3RD DECEMBER 2025

**NOEL I. ADAGI  
JUDGE**

SENTENCE READ AT MACHAKOS THIS 3RD DECEMBER 2025