



**Republic v Muthee (Criminal Case 50 of 2023)
[2025] KEHC 18279 (KLR) (9 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 18279 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 50 OF 2023
DR KAVEDZA, J
DECEMBER 9, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

THOMAS MBUGUA MUTHEE ACCUSED

JUDGMENT

1. The accused Thomas Mbugua Muthee 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 the night of 11th to 12th November 2022, at an unknown time at Onyonka Estate, in Langata Sub County within Nairobi county murdered Naneu Muthoni Muturi. 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 and signed a plea agreement on 9th May 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 outlined in the plea agreement, are as follows. On the night of 11th November 2022 at about 10.00 pm, the deceased, Naneu Muthoni Muturi, was dropped at Talent Academy, Lang'ata by her mother, Grace Muturi, after work. The deceased called the accused, with whom she cohabited as husband and wife at Onyonka Estate, Lang'ata. They agreed to meet and did so shortly thereafter, returned home briefly to drop the deceased's bag, and then proceeded to Area 21 Club within Lang'ata, where they consumed alcohol. They left the club after midnight and headed back home.
4. At about 1.00 am on 12th November 2022, as they opened their main gate, their caretaker and neighbour, Peter Kitonga, heard them speaking loudly in a manner suggestive of drunkenness. At about 2.00 am, a domestic argument ensued, which escalated into a violent fight. The deceased's



distress cries were heard by neighbours Hellen Akelo and Teresia Nduta. The noise persisted for some time before it went silent.

5. On the morning of 12th November 2022, the accused woke up and found the deceased naked and unresponsive on the sitting room floor. He left the house immediately, abandoning the deceased inside with the lights on. That evening, he sold one of his mobile phones and boarded a bus to Nakuru, where he spent the night. On 13th November 2022, he travelled to Malaba and crossed into Uganda. While there, he contacted his mother residing in the United States and confessed to what had occurred. The information was relayed to his uncle, Martin Wanjohi, who reported the matter at DCI Lang'ata on 14th November 2022 under OB No. 17/14/11/2022.
6. Acting on the report, DCI officers, led by IP Langat and supported by IP Ndeto, PC Magala, PC Muchai and Cpl Ndirangu, proceeded to the one-bedroomed house at Onyonka Estate, House No. C126 Extension. Inside, they found the deceased's body lying on a sofa set, covered with a grey bedsheet. The body was naked and bore multiple visible injuries to the head, shoulders and back. The house was heavily blood-stained on the walls, floor, mattress and bed frame. The scene was photographed, and the body was removed to Montezuma Monalisa Funeral Home.
7. A search of the house yielded several exhibits, including a blood-stained Techno Camon mobile phone, a broken Rolex watch, two broken decorative bottles, a broken wooden shelf, a blood-stained towel, a blood-stained Triple Ace vodka bottle, a broken speaker and stand, and a purple clutch purse containing the deceased's national identity card and the accused's Co-operative Bank ATM card. The accused's mobile number and identity details were obtained from the caretaker, and tracing commenced with the assistance of CRIB and Interpol.
8. On 15th November 2022, a post-mortem was conducted after positive identification of the body by the deceased's mother and Elizabeth Mwaura. The pathologist, Dr Johansen Oduor, formed the opinion that the cause of death was head injury due to blunt force trauma and penetrating trauma. Specimens were taken for toxicology and DNA analysis.
9. On 16th November 2022, the accused was traced to Malaba through mobile phone signal tracking. On 18th November 2022 at about 12.30 pm, while attempting to make an M-Pesa withdrawal at the Malaba Uganda border trading Centre, he was arrested by Kenyan and Ugandan DCI officers. Upon search, officers recovered his East African Community passport, national identity card, three SIM cards, and a Nokia mobile phone belonging to the deceased. An inventory was prepared and signed. He was subsequently transferred to Kenya, presented before the Kibera Law Courts on 21st November 2022, and later certified mentally fit to stand trial following examination at Mathari Hospital on 19th December 2022.
10. 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.
11. In mitigation, Mr. Ogutu Counsel for the accused, submitted that the accused is remorseful and that efforts were made by both families to reconcile. He stated that the accused's family sought forgiveness from the victim's family and that both sides agreed the accused and the deceased were under the influence of alcohol at the time of the offence. He urged the Court to note that the accused is a first offender and has already started the process of rehabilitation by enrolling back to school. He further submitted that the probation report is favourable and supports a non-custodial sentence.



12. Ms. Maina, learned Prosecution Counsel, opposed the plea for a non-custodial sentence. She submitted that although there was reconciliation between the victim's family and the accused, a deterrent sentence was necessary to discourage the public from committing such offences. Ms Maina also drew the Court's attention to the fact that the accused fled to Uganda after the offence, conduct which she said reflected a lack of remorse. She asked the Court to consider the gravity of the offence, the young age of the deceased, who had just completed college, and the impact on the victim's family. She urged the Court to impose a custodial sentence.
13. The pre-sentence report indicates that the offender is a 33-year-old man, unmarried, with one child aged ten years, who is in the custody of his former partner. At the time of his arrest, he was in a relationship with the deceased. He pleaded guilty, admitted responsibility, and expressed remorse, attributing the offence to excessive alcohol and bhang consumption. While in custody, he reports having engaged in rehabilitation and personal reform and now seeks a second chance through a non-custodial sentence.
14. The offender's family holds supportive views. They described him as calm, God fearing and of good character, with no prior criminal history. They expressed shock at the offence and urged the court to consider a lenient, non-custodial sentence, undertaking to support his reintegration.
15. The victim's family, while still grieving, reported having suffered psychological, emotional, physical and financial harm. They have, however, forgiven the offender and entered into a reconciliation agreement in accordance with Maasai traditions. Compensation was agreed at forty-nine head of cattle valued at approximately Kshs. 1,470,000, payable on or before 30th March 2026. To date, Kshs. 688,000 has been paid, and they requested that the balance be paid by the agreed date. Community views were generally positive, with no objection to a non-custodial sentence. Religious leaders also expressed willingness to support the offender's rehabilitation.
16. The social inquiry reveals that the offender has no known prior criminal record and was raised on Christian values. The offence arose from a domestic dispute that escalated into fatal violence. He has expressed remorse and sought forgiveness from the victim's family. His identified factors, such as alcohol and bhang abuse and anger issues, are amenable to psychosocial intervention.
17. 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.”
18. 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"

19. I have carefully considered the gravity of the offence, the principles of proportionality, deterrence and rehabilitation, together with the views of the deceased's family as captured in the pre-sentence report. While the probation officer recommends a non-custodial sentence on the basis that the offence was not premeditated, the facts on record disclose a brutal and sustained assault within a domestic setting that culminated in the loss of life. The deceased suffered multiple injuries, and the scene was heavily blood-stained, demonstrating the extreme violence that was inflicted. This was not a minor or impulsive altercation but a fatal attack whose consequences are irreversible.
20. The violent killing of the deceased has occasioned profound emotional, psychological and financial suffering to her family. Notwithstanding their forgiveness and the reconciliation process undertaken under customary law, this court remains bound to uphold the public interest and the rule of law. The sanctity of human life is paramount, and the sentence must reflect the seriousness of unlawfully taking another person's life. To that end, a non-custodial sentence would not meet the ends of justice nor serve the objective of deterrence.
21. I have also weighed the offender's mitigation, his guilty plea, remorse, lack of prior criminal record, and the time already spent in custody. These are relevant factors in mitigation. However, they cannot outweigh the extreme gravity of the offence and the permanent loss suffered by the deceased's family. The offender's flight from the scene, disposal of his phone, and escape across the border further demonstrate post-offence conduct inconsistent with immediate accountability.
22. In the circumstances, this court is satisfied that a custodial sentence is both necessary and appropriate. It ensures accountability for the offence, affirms the value of the deceased's life, meets the objectives of punishment and deterrence, and provides an avenue for structured rehabilitation within the prison system to address the offender's underlying behavioural and substance abuse issues.
23. In the circumstances, I would have sentenced the accused to life imprisonment; however, having pleaded guilty, and he sought forgiveness from family of the deceased, he is entitled to an incentive. In the premises, I sentence the accused Thomas Mbugua Muthee to fifteen (15) years imprisonment. The sentence shall run from 18th November 2022, the date of his arrest, pursuant to section 333(2) of the Criminal Procedure Code.

Orders accordingly.

JUDGEMENT DATED AND DELIVERED VIRTUALLY THIS 9TH DAY OF DECEMBER 2025

D. KAVEDZA

JUDGE

In the presence of:

Mr. Ogutu for the Accused

Ms. Timoi for the Prosecution

Karimi Court Assistant.

