

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
CRIMINAL CASE NO. E002 OF 2025

REPUBLIC.....PROSECUTOR
OR

VERSUS

MARY NJERI.....1ST
ACCUSED

LILIAN MUHIAKI.....2ND
ACCUSED

JUDGEMENT

1. The 1st and 2nd accused, were jointly 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 28th of December 2024 at Kinuthia Centre, Kabiria area, Dagoretti Sub County, within Nairobi county jointly with others not before court unlawfully killed Beatrice Wangui.
2. The accused persons pleaded not guilty to the charge. However, following successful plea negotiations with the state, the both accused persons pleaded guilty to a lesser charge of manslaughter and signed a plea agreement on 15th July 2025. The accused persons were therefore jointly charged with the offence of manslaughter contrary to section 205 of the Penal Code cap 63 Laws of Kenya.
3. The brief facts, as set out in the plea agreement, disclose that the 1st Accused person is the deceased's mother, while the 2nd Accused person is her maternal aunt. The deceased had lived with the 1st Accused person at Kabiria village together with her

siblings, James Wanyoike, Kelvin Gichinga and Nancy Wanjiku, until 24th December 2024, when she decided to move out of the home.

4. On 25th December 2024, the deceased returned to the house to pick a child she had left behind the previous day. She informed her siblings, Kelvin and Nancy, that she was taking the child to the father. Two days later, on 27th December 2024, James Wanyoike returned from work and asked Kelvin Gichinga about the whereabouts of the deceased. When Kelvin stated that he did not know, James assaulted him. James then instructed Kelvin to take him and the Accused persons to where the deceased had said she was going, but they were unable to find her despite efforts to trace her.
5. On 28th December 2024, the 2nd Accused person, in an attempt to lure the deceased back home, telephoned her and falsely claimed that her mother had been involved in an accident. The deceased returned home the same day. Upon her arrival, the Accused persons, together with James and another aunt, Anna, took her into the house, locked the door, and proceeded to beat her as she pleaded for mercy. During the assault, Nancy was warned not to engage in behaviour similar to that of the deceased, and was told that she would suffer the same fate if she did.
6. A neighbour, Lavender Kadesa, heard screams from the 1st Accused person's house and went there, but found the door locked and returned to her home. After the beating, the Accused persons, James and Anna left the house, leaving the deceased in pain and bleeding from the head. Nancy carried her to bed. The

deceased asked for water, prompting Nancy to seek help from Lavender. Lavender and another neighbour, Silvia Waithera, assisted and found the deceased bleeding from the nose, bruised, and becoming cold.

7. They rushed her to Fremo Hospital and were referred to Mutuini Level Four Hospital, where nurse Josephine Kimotho confirmed that the deceased had already succumbed to her injuries. The matter was reported to Mutuini Police Post, investigations commenced, and a post-mortem conducted on 2nd January 2025 established that the cause of death was a head injury due to blunt force trauma.
8. The Accused persons were arrested underwent mental assessment at Mama Lucy Kibaki Hospital and they were certified fit to stand trial.
9. Upon reading the facts to the accused persons and after confirming that the plea-bargaining process was voluntary, that the accused persons constitutional rights had not been violated during the negotiation process, and further that they were not coerced, the court accepted the plea agreement and convicted the 1st and 2nd accused accordingly.
10. In mitigation, Ms. Nyamongo for the 1st Accused submitted that the 1st Accused is a 42-year-old single mother of three, having separated from her husband in 2007 and having lost one child. The deceased was her second-born and biological daughter. Counsel submitted that the Accused did not intend to cause the death of the deceased but was attempting to discipline her, believing she was acting in her daughter's best interests. She maintained that the 1st Accused is deeply remorseful and has

been undergoing treatment for depression. She has raised her children in difficult circumstances and still has three dependent children who rely on her care and support. Counsel urged the Court to consider her mental health, remorse, and parental responsibilities, and to impose a non-custodial sentence with appropriate treatment.

11. Mr. Onyone for the 2nd Accused submitted that the 2nd Accused is a 40-year-old married woman with three children and was previously engaged in mobile wholesale trade. She is the deceased's aunt and has been in continuous custody for approximately eleven months, which counsel submitted has had a substantial punitive and rehabilitative effect. He maintained that the accused is remorseful, disciplined, and reflective, as noted in the pre-sentence report. She has strong family, church, and community support within Kabiria and poses a low risk of reoffending. Counsel urged the Court to consider her dependants, for whom she is the primary breadwinner, and impose a lenient, non-custodial sentence.

12. In response, Ms. Timoi, learned prosecution counsel, submitted that the circumstances of the offence were grave and called for custodial sentences for both Accused persons. She contended that the deceased was deliberately lured home, locked inside the house, brutally assaulted, prevented from receiving assistance, and denied medical care, which directly led to her death. Counsel distinguished lawful parental discipline from unlawful assault and argued that there was no justification for the violence. The community remains deeply affected, and the deceased's young child has been left without a mother. The prosecution urged the

Court to impose custodial sentences to ensure accountability, deterrence, and justice for the deceased.

13. In considering sentence, the Court is urged to weigh both the need for justice and the prospects for rehabilitation. The accused's youth, first-time offender status, genuine remorse, and efforts at reconciliation are relevant mitigating factors. The circumstances reflect a tragic domestic dispute rather than premeditated violence. The sentence must therefore balance accountability with the opportunity for transformation, acknowledging the profound loss suffered by the deceased's family while recognising the accused's potential for rehabilitation.
14. The probation report in respect of the 1st Accused indicated that she accepted full responsibility for her actions, expressed remorse, and pleaded for leniency. She and her family sought a non-custodial sentence for the sake of her children. Community leaders, however, opposed such an outcome, citing the recentness and gravity of the offence, the likelihood of public unrest, and concerns for her personal safety, observing that a custodial sentence would appease the community and avert possible retaliation. The report further noted that the deceased was a 20-year-old woman, the offender's second child and eldest daughter, who left behind a two-year-old son now under the care of his paternal grandmother in Eldoret. The offender was assessed as presenting a medium risk of reoffending, having engaged in successive violent acts and demonstrated poor parenting skills, though she was not dependent on alcohol or substances. Despite this, the probation officer found her suitable for a non-custodial

sentence and recommended probation on condition that she permanently vacates Dagoretti Subcounty.

15. As regards the 2nd Accused, the probation report recorded her plea for mercy and a non-custodial sentence in the interest of her children. While community leaders opposed such a sentence, her church members supported rehabilitation. She was assessed as a low risk of reoffending, with no prior history of violence. Her conduct was attributed to mob mentality rather than deliberate intent, and she was found to be a suitable candidate for probation, subject to vacating Dagoretti Subcounty permanently.
16. 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.

17. 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 paragraphs 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 offender. The court has to take into consideration all aspects including Social interest and consciousness of the society for award of appropriate sentence"

18. I have considered the seriousness of the offence, the applicable sentencing principles of proportionality, deterrence, rehabilitation, and retribution, as well as the views expressed by the victim's family and the wider community. The violent death of a young woman in the hands of her own family has caused profound emotional loss and enduring hardship, particularly to her minor child who has been left without maternal care.
19. This Court must affirm the sanctity of life and send a clear message that acts of extreme violence, however rationalised as discipline or concern, will not be tolerated. While the offenders' pleas of remorse and stated willingness to reform have been considered, they cannot outweigh the gravity of the offence, the manner in which it was committed, and its irreversible consequences. A custodial sentence is therefore necessary to vindicate the public interest, uphold the rule of law, and deter similar conduct within the community.
20. In the circumstances of this case, imprisonment will also serve a rehabilitative function by providing a structured environment in

which the offenders can access counselling, anger management, and behavioural interventions aimed at addressing the underlying factors that led to the commission of the offence.

21. In the circumstances, I would have imposed a sentence of thirty (30) years. However, the offenders are entitled to an incentive for pleading guilty I therefore sentence Mary Njeri and Lilian Muhiaki to each serve ten (10) years imprisonment. The sentence shall run from 28th December 2024, the date of their arrest pursuant to section 333(2) of the Criminal Procedure Code. Orders accordingly.

Judgement dated and delivered this 19th day of December 2025

**D. KAVEDZA
JUDGE**

In the presence of:

Ms. Maina for the Prosecution

Accused persons present

Mr. Onyore for the 2nd Accused

Karimi Court Assistant.