



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Ngari & another (Criminal Case 9 of 2019)  
[2025] KEHC 18880 (KLR) (15 December 2025) (Sentence)**

Neutral citation: [2025] KEHC 18880 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
CRIMINAL CASE 9 OF 2019  
EM MURIITHI, J  
DECEMBER 15, 2025**

**BETWEEN**

**THE REPUBLIC ..... PROSECUTION**

**AND**

**JAMES GITARI NGARI ..... 1<sup>ST</sup> ACCUSED**

**PAUL MWENDIA NGARI ..... 2<sup>ND</sup> ACCUSED**

**SENTENCE**

1. The accused persons were on 30/4/2019 initially charged with the offence of murder contrary to section 203 as read with 204 of the Penal Code with particulars that they on the 14<sup>th</sup> day of April 2019 at Kariru village, Karumandi Location in Kirinyaga East within Kirinyaga County unlawfully killed Peter Gitari Kago. They have been in custody since arraignment.
2. After four (4) Prosecution witnesses had testified, by a Plea bargain agreement dated 23/9/2025, the 1<sup>st</sup> accused James Gitari Ngari, pleaded guilty to the offence of manslaughter and was convicted on his own plea for manslaughter contrary to section 202 as read with 205 of the Penal Code.
3. Although in his statement to the Probation Officer's the 1<sup>st</sup> accused is reported to have attempted to "minimize his role in the offence despite being confronted with the assault mater," by alleging he had been in a fight with the deceased over a girl-friend, the circumstance so the offence by the facts admitted by the 1<sup>st</sup> accused indicate an assault during a robbery with violence as the accused was in he company of another.



4. The facts admitted by the 1<sup>st</sup> Accused in the Plea bargain agreement indicate that the deceased was going home in the night when he was attacked by two people whom he identified and who stole from him his mobile phone and case while hitting him on head with a blunt object as follows:

“They assaulted him and stole his mobile phone worth Kshs 6000/- with some money in cash of Kshs 2000/- after hitting the deceased on the head with a blunt object. The deceased marshalled all the energy left in him and struggled towards a neighbor’s house while shouting for help.

It is the evidence of Pw-1 {Ejidious Kiragu Mathai} who testified on 28th February 2022 that the deceased knocked on his door at about 0200 hrs while he was a sleep by calling him by name “Kiragu”. That he woke up in response to the call. He stated that he was able to identify the deceased {Gitari Kago} his friend of many years and when he asked him what was the matter, he told him he had been assaulted by persons known to him and was able to positively identify {James Gitari Ngare}. That he told him the assailants had managed to take his mobile phone, money in cash and a piece of meat worth Kshs 200/-. He testified that the deceased had serious injuries more particularly on his head where he had suffered on the left of his head and appeared to be in a lot of pain. That it was him who conducted his next of kin but unfortunately, he learned of his demise with profound shock.

Pw-2 {Florence Wawira Gitari} the wife to Pw-1 corroborated the husband that the deceased indeed knocked on their door on the wee hours of 13th April 2019 and appeared to be in a lot of pain.

She confirms that indeed the deceased disclosed to them to have been accosted by the two accused persons being {James Gitari Ngare} and {Paul Mwendia Ngare} who in the process also stole his phone, Cash and meat he was carrying. That it was his next of kin who they called and escorted the deceased to Kianyaga Sub-

County Hospital.

Pw-3 {Francis Weru Chege} confirmed that he was called by Pw-1 {Ejidious Kiragu} on 13th April 2019 being informed of the deceased condition. That he quickly summoned his wife and few people from his family and rushed to Pw-1’s homestead. That as they arrived in the home, they found the deceased having suffered and appearing to be in a lot of pain. He states that the deceased had injuries on the head and was bleeding on the left side of his head. The deceased identified {James Gitari Ngare} and {Paul Mwendia Ngare} the people who assaulted him that night.

Pw-4 {Simon Muriuki Mutema} testified on 28th February 2022 and was able to confirm that he was approached by one {Boniface Kago Chege} on the 14th April 2018 at about 4 am being requested to volunteer his Motor cycle to escort the deceased to Hospital. That indeed he assisted in escorting the deceased to Kianyaga Police Station before taking him to Kianyaga Sub-County Hospital.

Pw-5 {NO68195 CPL Julius Koskey} is the investigating officer who recorded the witness statements and established the accused {Paul Mwendia Ngari} whom they found in his house had cloths he was wearing the previous night still with blood.

At {James Gitari Ngare} house, he was able to recover a pair of navy-blue sports shoe with blood stain and a white shirt also stained with blood at the drying line. That they were unable to explain satisfactorily how the items had blood stain and were arrested forthwith.



Doctor [Karomo] who performed the post mortem formed the opinion the cause of death was due to severe head injury following heavy blunt force trauma in an assault.”

5. The Probation Officer’s pre-sentence report dated 21/11/2025 is negative for non-custodial sentence identifying the accused as a medium risk offender requiring addressing of his criminogenic needs through proper programs in Prison.
6. In mitigation the Accused urged for leniency for causing death of his friend and pointed to the long custody in pretrial detention of over 6 years.
7. It is an aggravating factor that the evidence admitted by the accused indicate a situation of robbery with violence rather than accidental death in a fight between friends as alleged by the accused in his statement to the Probation Officer.
8. The Court considers a sentence of imprisonment for a period sufficient to have his reformation needs addressed to be appropriate, and taking in to account that the accused has been in custody for six years and eight (8) months, a sentence of imprisonment for ten (10) years is suitable.

### **Orders**

9. Accordingly, for the reasons set out above, having convicted the accused for the offence of manslaughter contrary to section 202 as read with 204 of the Penal Code, on his own plea of guilty the Court now sentence the accused to imprisonment for ten (10) years.
10. The sentence of imprisonment for ten (10) years shall be reckoned from the date of arraignment of 30/4/2019, in accordance with section 333(2) of the Criminal Procedure Code.

Order accordingly.

**DATED AND DELIVERED THIS 15<sup>TH</sup> DAY OF DECEMBER 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances:

Mr. Mamba for the DPP.

Ms. Wambui for the 1<sup>st</sup> Accused.

Mr. Asiimwe for the 2<sup>nd</sup> Accused.

