



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CRIMINAL CASE NUMBER E012 OF 2023

REPUBLIC.....PROSECUTOR

-VERSUS-

STEPHEN NDERITU NDIGI.....ACCUSED

SENTENCE RULING

1. **Mr. Stephen Nderitu Ndigi** you were arrested on the 14th February 2023 and charged with murdering your wife **Rosa Chokchok** on the 13th Day February of 2023 at Tritagon Village in Njoro Sub-County, Nakuru County.
2. After a trial with seven (7) witnesses testifying three of whom are your children the Court found you with a case to answer and placed you on your defense and gave sworn evidence without calling any witnesses.
3. The Court found that the case of murder against you had been proven beyond reasonable doubt and proceeded to find you guilty as charged and convicted accordingly.
4. The Court afforded the Defence an opportunity to mitigate while calling for preparation of a pre-sentence inquiry report.

5. **Ms. Elizabeth Kwamboka**, Probation Officer, Nakuru undertook the inquiry and prepared her report dated 28th July 2025 which report is Information was obtained from the accused, his children who are the secondary victims as well, siblings of the primary victim and the local administration of Kapkatet area where the accused has been staying during the trial process and Tritagon area where the offence took place the same is generally favorable to the accused as follows;

- i. The accused aged 70 years old is survived by seven siblings as both his parents, Lengeiwi Ndigi and Nareiyo Lengeiwa passed away in the year 2004 and 2002 respectively. The accused is the sixth born according to the sibling order. The first Mary Lesingo is an elder living in Naiswet, the second born Layeisho Lengeiywa is married in Tinet, the third born William Lengeiywo is deceased, the fourth born Monica Lengeiywa is a farmer in Naiswet, the fifth born Elizabeth Moila is married in Marishoni and lastly Jane Mbusia who lives in Naiswet.
- ii. There is no criminal history recorded in the family prior to this offence. The family has been having good relations with each other and have a great support system. This is seen from the fact that one of the nieces to the accused became a surety for the accused. The family depend on farming as their main economic activity and source of income.

- iii. The offence occurred within the same family setup as the accused committed the offence against his wife. Efforts for the immediate families of both accused and the deceased to have talks with the victims over the matter became futile as the family of the deceased did not want to associate with the accused family at all.
- iv. The accused was born in Likia and had a normal upbringing. He attained formal education from Lamdiek Primary school where he underwent the CPE system. He never proceeded to the next level but instead started engaging in casual farm jobs till adulthood. In the year 1981 he married the late Rosa Chok Chok with whom they were blessed with eight children unfortunately one is now deceased. Eunice Cherotich lives in Naiswet, Hilton Kipkemoi a farmer in Naiswet, John Kipkemoi runs an Academy in Naiswet, Florence Cheruto is married in Nyahururu, Lydia Chelangat is married in Narok, Irene Cherop cleared her form four level in 2024 and lastly Fancy Chebet is a form two student drop out.
- v. Following the incident that occurred, the children were very bitter towards their father however as months progressed they seemed to have healed. This is due to the fact that upon the accused being granted bond, all the children joined their father in the land where he settled while he attended Court sessions except for one who had settled with his family there.

- vi. The accused had a medical condition of discharging blood in his urine but was treated in the year 2024 according to the medical discharge summary presented to the office. He however states the same condition has reoccurred and is causing pain in his genitalia.
- vii. It is said the accused had never engaged in any alcohol or drug use prior to the offence and currently has maintained the same status.
- viii. The accused appreciates the Court verdict which pronounced him guilty. He understands the seriousness of the offence and in this regard, he seeks leniency from the Honorable Court. He acknowledges that the victim's family need justice and, in this regard, he is willing to carry out any reconciliation process in accordance with their customs if given a chance.
- ix. The accused seeks leniency to the Honorable Court. He understands the gravity of bitterness his in laws have towards him and wishes they would grant him a chance to condole with them.
- x. **Rosa Chok Chok** the deceased was the fourth born in her family. She was a mother to eight children upon getting married to the accused. A home visit was made in Kapkatet where six of the children were brought on board and later the remaining two were given a call to give their views. They indicated that after the offence occurred they were taken in under the care of the

deceased siblings to help them move on now that the accused was incarcerated and the mother passed on. The children state the care was not forthcoming especially as the last born of the family was experiencing school fees issues which led to large arrears in school. This forced her to drop out of school and at some point attached herself in an early relationship. It is said the children parted ways only to re assemble when the accused person was granted bond and settled in another village within the same sub Location. The children followed him there and this is where they were settling as the trial process continued. The children indicate that they wish their father who is the accused, would be granted a chance on non-custodial so as to support their sibling who is the only one who has not been able to clear school. They indicate they have since forgiven him and have reconciled with each other during the time he was out on bond. It is their wish they are not snatched away both parents now that one was through death and the other through incarceration.

- xi. The siblings to the deceased were also brought on board where they indicated they are still filled with bitterness over what the accused did against their sister. They state that indeed the couple used to have marital conflicts and at times they would advise the couple how to live harmoniously. They feel it was not in his right to take away the life of their dependent and kin. They also indicated that they could not engage in any sort of reconciliation with the accused family as their culture demands that when a woman is killed no such negotiations or

reconciliation would be handled. They pray the Honorable Court would mete this matter with justice which according to their words is custodial measures for the accused.

- xii. The local administration where the offence occurred, was brought on board. The area chief, **Johnson Kiprotich Tunai** stated that the accused prior to the offence, was known to be of good conduct who associated himself with the local church. The community regarded him as a pastor. There was never an incident reported to the local administration questioning his behavior or conduct. He indicates the community was shocked of the ordeal and since it was wrong, it was in order for him to be held accountable for his mistakes. He states that for now the community is calm and does not portray any hostility judging from the fact that he was out on bond and where he settled was still near the area of incident. He also states from his observation; his children have been supportive of the accused since his return home during the trial process and therefore in his opinion he supports non-custodial sentence.
- xiii. That the accused, is a 70-year-old who appreciates the Court process that pronounced him guilty. The relationship between the accused and the deceased was that of husband and wife. It is confirmed the couple had marital issues which was a factor stated to have led to the commission of the offence. The children to the couple have since healed and forgiven the accused as they have embraced the idea that the accused has

reminisced over his deeds. They cite that the time the accused was in custody they went through a rough time with their uncles however they are still in talking terms with them. It is their prayer they don't suffer double jeopardy of losing a mother through death and another parent through incarceration. On the other hand the siblings to the deceased still express bitterness over the matter and according to them the accused should not benefit from non-custodial measures but instead get custodial sentence. The local administration representing the community speak well of the accused prior to the offence and state there is calm in the community as of now.

xiv. The Probation Department has left the sentencing to the discretion of the Court.

6. In the entire trial the family of the victim was represented by **Mr. Kenda Advocate** who equally filed submissions urging for the imposition of the harshest sentence provided for in law.
7. **Section 204** of the **Penal Code** provides that a conviction of murder attracts a death sentence. However, the Supreme Court of Kenya in ***Francis Muruatetu & Another vs Republic [2017] eKLR*** in finding that the mandatory nature of the death sentence to being unconstitutional stated that:-

“58 We now lay to rest the quagmire that has plagued the Court with regard to the mandatory nature of Section 204 of the Penal Code. We do this by determining that

any Court dealing with the offence of murder is allowed to exercise judicial discretion by considering any mitigating factors in sentencing an accused person charged with and found guilty of that offence. To do otherwise will render a trial, with the resulting sentence under Section 204 of the Penal Code unfair thereby conflicting with article 25(c), 28, 48 and 50(1) and (2) (g) of the constitution”

8. This Court has considered the circumstances of the offence as was held in Charo Ngumbao Gugudu -vs- Republic (2011) eKLR where the Court of Appeal held as follows: -

“Further the law is that sentence imposed on an accused persons must be commensurate in the moral blame worthiness of the offender and that it is thus not proper exercise for the Court to fall to look at the facts and circumstances of the case in their entirety before setting for any given sentence – See Ambani - vs- Republic (1990) eKLR.”

9. This Court is bound to and incorporates the Sentencing Policy Guidelines 2023 vide Gazette Notice No 11587 of 1st September 2023 set out the sentencing principles.
10. The principles of “Sentencing an offender” were clearly stated in the case of Dakle Hussein Vs Republic Criminal Appeal Na. I of 2015 [2015] eKLR to include;

Retribution; to punish the offender for his or her criminal conduct in a just manner;

Deterrence; to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences;

Rehabilitation; to enable the offender reform his criminal disposition and become a law-abiding citizen.

Restorative justice; to address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims, communities and offenders needs and justice demand that these are met. Further to promote a sense of responsibility through the offender's contribution towards meeting the victim's needs.

Community protection; to protect the community by incapacitating the offender. I submit that I have been incapacitated for long.

Denunciation; to communicate the community's condemnation of the criminal conduct.

11. While the children of the deceased and the accused are of a reconciliatory approach in sentencing and craving for a non-custodial sentence, the family of the deceased the (in-laws to the accused) urge for retribution and imposition of the maximum sentence.
12. The Court has equally considered the mitigation that Stephen is aged over 70years, he is remorseful, without any previous criminal record, he

is now reformed and has learnt his lesson he has seven children the last born having dropped out of school owing to lack of school fees urging for a non-custodial sentence, that is imprisoned then the children shall have lost both parents.

13. This Court is alive to the far-reaching effect of the conduct of the accused upon his own children, but equally recalls that the deceased deserved better from the accused and that femicide is now run away in Kenya calling for a sentence that is retributive, a deterrent and for general community protection. The impact of the loss of life in this instance shall have a far-reaching effect upon the seven surviving children and the larger extended family in fact the youngest daughter of the deceased has now dropped out from school owing to school fees constraints.
14. The circumstances of the events on the night 13th February 2023 cannot go without mention and are critical in this sentence hearing, the deceased literally dragged the deceased from the kitchen where she was sleeping with her 15 year old daughter, while armed with a panga and a hammer, he murdered her in an open maize farm where maize had been harvested, after the offence you attempted to conceal your crime by dragging the deceased body into a disused, the body was pushed in head first, attempting to conceal the body by covering the disused hole with remnant maize stalks from the harvest. To this Court this is indicative of the guilt that the accused shall have to live with which aspect has influenced the Court lean towards imposing a custodial sentence.

15. **Article 260** of the **Constitution**, recognizes the convict as falling within the category of an “older member of society”. In considering what sentence to impose, the Court has to consider **Article 57** of the **Constitution** which guarantees the rights of older members of society to live in dignity and to be given reasonable care and assistance.

16. **Clause 3.3.4** of the Sentencing Policy Guidelines 2023 provides that
“When imposing sentencing orders against terminally ill and elderly offenders, a Court should ensure that the sentence imposed does not amount to an excessive punishment in view of the extent of illness and age, as well as in light of the offence committed. In particular, the Court should ensure that the sentence imposed does not amount to cruel, inhuman or degrading treatment in view of the extent of illness or age of the offender”.

17. Justice must be served for the lost life of **Rosa Chokchok**. Life is sacrosanct and sanctified. It must be protected, respected and enjoyed as a right whether naturally or constitutionally.

18. However, **Mr. Stephen Nderitu Ndigi** you will have to atone for your sin. Accordingly, having convicted you of the offence of murder contrary to **Section 203** as read with **204 of the Penal Code**, I hereby impose upon you a ten (10) years sentence.

19. There will be a custodial imprisonment for five (5) years. Plus an additional non-custodial sentence of five (5) years to be supervised by the Probation department which sentence will run from today.
20. For the avoidance of doubt, the period the accused person spent in custody before being admitted to bail bond and after conviction awaiting sentence is hereby taken into account while computing this sentence in line with **Section 333(2) of the Criminal Procedure Code Cap 75 (Laws of Kenya)**.

It is so ordered.

**Dated, signed and delivered at Nakuru
on this 16th day of January, 2026**

**Mohochi S.M.
JUDGE**