

REPUBLIC OF KENYA

IN THE HIGH COURT AT ELDORET

CRIMINAL CASE NO.6 OF 2014

REPUBLICPROSECUTION

VERSUS

ROBERT KIPKOECH MUTAIACCUSED

RULING

1. The accused was initially charged with the offence of **Murder Contrary to Section 203 as read with Section 204 of the Penal Code**. On 3rd February 2014 he pleaded Not Guilty to the charge and a plea of not guilty was duly entered against the him.
2. For the purposes of this Ruling, on 26th February 2025 the accused and the prosecution entered into and executed a Plea Bargain Agreement which was aimed at reducing the charges herein from Murder to **Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code**.
3. On the 9th April 2025, the said plea bargain agreement was presented to court for adoption and sentencing. The Statement of Facts were read out to the accused and upon the court asking the accused person whether the facts as read out were correct, the accused disputed the facts.

4. The accused having disputed the Statement of Facts as read out, Hon. Justice Wananda before whom the matter was being heard noted that the Plea Bargain Agreement then stood as rejected and the same therefore of no effect to the case. The Hon Judge then transferred the matter to this court for hearing and determination.
5. When the matter came up for directions on the hearing, the accused person intimated to Court that he wanted to go back to his initial plea agreement for reasons that he did not want to waste the court's time anymore hence this Ruling.

Determination

6. The only issue for the court's determination is;

Whether upon rejection of an initial Plea Bargain Agreement by the court, the same can be reintroduced so that the court entertains it afresh.

7. The answer to this question has been provided for by statute. **Section 137J** of the **Criminal Procedure Code** provides a guiding framework on rejection of plea agreement. It provides as follows:

(1) Where the court rejects a plea agreement—

(a) it shall record the reasons for such rejection and inform the parties accordingly;

(b)the plea agreement shall become null and void and no party shall be bound by its terms;

(c)the proceedings giving rise to the plea agreement shall be inadmissible in a subsequent trial or any future trial relating to the same facts; and

(d)a plea of not guilty shall be entered accordingly.

(2) Where a plea agreement has been rejected by the court and a plea of not guilty consequently entered, the prosecution may, upon being informed of the fact under subsection (1)(a), proceed to try the matter afresh before another court.

Provided that the accused person may waive his right to have the trial proceed before another court.

(3) Upon rejection of a plea agreement, there shall be no further plea negotiation in a trial relating to the same facts.

(4) Where the court has rejected a plea agreement under this section, no party shall appeal against, or apply for a review of, the order of the court rejecting the agreement.

8. In light of the provisions of the law as above, the Plea Bargain that was rejected by Hon Justice Wananda which the accused person seeks that he be allowed to go back to for the reasons herein summarized **has now become**

null and void and no party shall be bound by its terms and the proceedings that gave rise to the plea agreement are now inadmissible. Further, the accused cannot now also enter into any other plea negotiation in a trial relating to the same facts and lastly, he cannot appeal against, or apply for the review of the order of the rejection of the court agreement.

- 9. The mere fact that this matter was transferred from Hon. Justice Wananda's court to this court does not clothe it with the definition of a new matter with new facts to warrant that this court goes back to the plea bargain agreement that was already rejected. For this reason, the applicant's Application is devoid of merit and the same is accordingly dismissed. The court shall proceed to hear the case on the initial charge of Murder as provided under Section 202 of the Criminal Procedure Code.**

Read Dated and Signed at ELDORET on 20th February 2026

**E. OMINDE
JUDGE**