

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MURANG'A
CRIMINAL CASE NO. 23 OF 2014

REPUBLIC.....
PROSECUTOR

VS

STEPHEN MACHARIA GACHAGAGA.....
ACCUSED

RULING ON SENTENCE

1. The Accused was charged with the offence of murder contrary to section 203 as read with section 204 of the penal code. Particulars were that on the 27th day of August 2014 at Murarandia Sub-location Murarandia Location in Kahuro district of Murang'a County, the Accused caused the death of *Beatrice Wanjiru Kimani* by inflicting a stab wound on the deceased's right breast affecting the deceased's vital organs, that is, lungs, diaphragm and liver.
2. Subsequently, the accused entered into a Plea-Bargaining Agreement, with the prosecution whereby on the 19th October 2025, he pleaded guilty to the lesser charge **Manslaughter contrary to Sections 202 and 205 of the Penal Code**. Facts were also read to him which he confirmed to be true together with post mortem report dated 4th September 2014 Which indicated the cause of death to be *cardio-pulmoary arrest due to penetrating injuries affecting the vital organs that is lung, diaphragm and liver*.
3. Mitigation was conducted on 29th November 2025 by Counsels Macharia Gachagaga and Kimori on behalf of the accused whereby, it was urged that the Court does take into account the period spent in custody since his arrest in August 2014, which is in excess of 11 years. He further

urged the Court to grant a non-custodial sentence to allow him re-join his family as his mother is aged and there is nobody to take care of her following the demise of the Accused's brother sometimes in 2015. Furthermore, the accused is now reformed and ready to contribute to society as attested to by the Pre-sentence report on file to the effect that a non-custodial sentence is appropriate with respect to the Accused.

4. The Court has taken to account the mitigation together with the Probation Officer's Report dated 17th November 2025. The aforesaid Probation Report states that the victim's family are not opposed to the Accused release on a non-custodial sentence and do not consider the Accused a threat to them.
5. At the time of the commission of the Offence for which the Accused is on trial, the Accused had worked for the victim as a cook in a hotel establishment known as "Early Bird Hotel" located at Kahuro area of Murang'a County. On 21st August 2014, the Accused reported to work drunk whereupon the victim tried to prevent the Accused from accessing the kitchen. An altercation ensued therefrom and the Accused stabbed the victim with a knife on the right breast resulting in the victim's death after about one month from the date of the incident. The Accused blames alcohol for the offence.
6. Under **section 205** of the **Penal Code**, the accused is liable face a punishment of life imprisonment. The Supreme Court in **Republic v Ayako (Petition E002 of 2024) [2025] KESC 20 (KLR) (Ayako case)** and **Republic v Manyeso (Petition E013 of 2024) [2025] KESC 16 (KLR)** held that a life imprisonment sentence is lawful and applicable. This was the finding in the cases where it was held that only Parliament has the power to revise a sentence prescribed under a statute. See the holding in **Republic v Mwaniki [2026] KEHC 1302 (KLR)**.

7. The Court is cognizant of the fact that is a first offender and is remorseful for the offence committed. The Court is alive to the fact that during the commission of the subject offence the Accused was intoxicated hence, his judgment was impaired in the heat of alcohol-induced passion. Furthermore, the Accused has spent in excess of 11 years in custody.
8. Taking into account the sentiments of the complainant's family/Pre-sentence report, the Court can exercise its discretion on sentencing given the circumstances of the case. The Probation Officer has recommended an appropriate non-custodial sentence.
9. I have therefore taken all factors into consideration, **and hereby sentence the accused to FOURTEEN (14) years imprisonment on the following conditions:**
- a) The sentence shall run from the date of the accused's first incarceration in this matter.**
 - b) the accused shall be released to serve a three (3) year probation period on a programme to be designed and assigned by a Probation Officer in the area where the accused's family shall be living.**
 - c) Right of appeal fourteen (14) days.**

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 26TH DAY OF FEBRUARY, 2026.

**HON. T. W. Ouya
JUDGE**

For Accused...Stephen Macharia Gachagaga(Present in Person)

For Accused.....No appearance by counsel

For State.....P. Mwangi

COURT ASSISTANT.....Brian