



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRC/E013/2022

THE REPUBLIC VS MURAD AWADH MBARAK

#### RULING

1. The accused, Murad Awadh Mbarak, was charged with murder contrary to Sections 203 and 204 of the Penal Code. The particulars allege that on 19 June 2022 at Majengo Kanamai, Kilifi South Sub county, Kilifi County, he murdered Nuru Ibrahim. After a full trial the accused was convicted. The court directed preparation of a Victim Impact Statement (VIS) and a Pre Sentence Inquiry Report (PSI), and both were prepared and filed by Mr. Stephen Muthoka, Senior Probation Officer.
2. Counsel for the accused, Mr. Magolo, submitted in mitigation, emphasising that the accused is remorseful, a first offender, and has spent approximately four years in custody. He stated the family declined attempts at reconciliation. The Defence mitigation sought mercy and asked that time spent on remand be taken into account.
3. The State, through Mr. Sirima, relied on the VIS and the Judiciary Sentencing Policy (2016), urging a deterrent sentence. The State emphasised that the offence was committed in the presence of the couple's children, involved multiple stab wounds inflicted with a knife, and was carried out in a manner described as humiliating and inhuman. The prosecutor submitted that relatives who attempted rescue were stabbed and that the accused stripped the deceased naked before the children.
4. It was also placed before the court that the accused and deceased had prior arguments; the accused was insecure and jealous. The immediate trigger, as it emerged in evidence, was the deceased joining Instagram, a conduct the



accused irrationally feared would expose her to male attention. The accused later sought a plea bargain approximately four years after arrest and after being placed on his defence; that belated proposal was rejected as untimely and lacking in sincerity. The court finds that genuine



remorse and conciliatory efforts should ordinarily be made promptly; the late approach diminished the mitigatory weight of the apology.

### Victim Impact Statement and Pre Sentence Inquiry Report

1. The VIS describes profound and continuing harm. The deceased was a mother and principal contributor to the household. The children witnessed their mother being stripped and stabbed; they suffer nightmares, fear, sleep disturbances, appetite loss and school regression. The family describes severe emotional and economic hardship. The PSI records the accused's ill founded accusations , arming a kitchen knife and stabbing the deceased repeatedly over a prolonged period of time despite pleas from relatives whom he had locked outside

### Aggravating and mitigating factors

1. The court finds the following aggravating features: (a) the killing was exceptionally brutal, involving multiple stab wounds over a prolonged period; (b) the deceased was stripped naked in the presence of her children, an act of humiliation that amplified the cruelty; (c) the offence occurred before the children, who remain traumatised; (d) relatives who intervened were stabbed, demonstrating the accused's willingness to use violence to prevent rescue; (e) the accused, as husband and father, breached duties of protection and care; and (f) the offence forms part of the broader and grave problem of gender based violence and femicide in Kenya, which sentencing must publicly condemn.

2. The court also notes troubling particulars of the offence: when relatives warned the deceased he nevertheless gave her water and instructed her to say final prayers , conduct that evidences cold deliberation and callousness in the face of imminent death and that reduced any weight that might otherwise be ascribed to a sudden, single moment loss of control.

3. Mitigating factors are limited: the accused is a first offender, expresses remorse, and has spent approximately four years on remand. However, the belated plea offer and delayed attempts at reconciliation materially diminish the weight of these factors.

### Legal principles

1. Sentencing is guided by the Constitution, statutes and the Judiciary Sentencing Policy Guidelines (2023). The Guidelines are advisory; judicial discretion remains paramount (Francis Karioko Muruatetu & Another v



Republic [2017] eKLR). Section 333 of the Criminal Procedure Code requires that time spent in lawful custody in connection with the offence be credited against the sentence.



## Sentence and reasons

1. Balancing the objectives of retribution, deterrence, denunciation and community protection against the limited mitigation, the court concludes that a substantial determinate custodial sentence is warranted. The aggravated nature of the offence, the humiliation and deliberate acts preceding death, the involvement of children as witnesses and the stabbing of intervening relatives demonstrate high moral culpability and a risk to public safety.
2. The accused is sentenced to thirty (30) years' imprisonment. The sentence shall run from the date the accused was first lawfully arraigned in respect of this matter in accordance with Section 333 of the Criminal Procedure Code.
3. The sentence reflects the extreme brutality of the offence, affirms society's condemnation of gender-based violence, and seeks to deter similar conduct while acknowledging limited mitigation. The accused's right of appeal against both conviction and sentence explained to him in Kiswahili.
4. It is so ordered.

DELIVERED, DATED AND SIGNED at MOMBASA this 25th day of February 2026. Ruling delivered via Microsoft Teams.

WENDY KAGENDO MICHENI  
JUDGE

In the presence of

The accused person and his advocate Mr.

Magolo Mr. Sirima and Ms Cherop for the  
state

Ms Bebora court Assistant

SIGNED BY/FOR:  
HON. LADY JUSTICE WENDY MICHENI



THE JUDICIARY OF KENYA.



