



**Republic v Malalu (Criminal Case E003 of 2024)  
[2026] KEHC 1594 (KLR) (29 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 1594 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CRIMINAL CASE E003 OF 2024  
WM KAGENDO., J  
JANUARY 29, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**ALLAN MICHAEL MALALU ..... ACCUSED**

**RULING**

1. The accused person herein, Allan Michael Malalu, was charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of the offence as per the information are that on the 5/2/2024 at Calvary in Vikwatani area, Kisauni sub-county, within Mombasa County, jointly with others not before court murdered Daniel Kipkemboi Kangogo.
2. He pleaded not guilty to the charge and after a full trial he was found guilty and convicted for the offence of murder. The court then called for both Victim Impact Statement and Pre-sentence inquiry Report. The same were prepared and filed by Mr Boytone Omondi, a Senior Probation Officer.
3. The accused person’s advocate E. Munyari , filed written submissions on mitigation and Mr Sirima submitted on behalf of the state.
4. Sentencing is an exercise of the Court’s discretion. The Court is guided by [the Constitution](#), any other relevant laws on sentencing and the [2023 Judiciary of Kenya Sentencing Policy Guidelines](#). Despite the importance of the guidelines, sentencing remains the exercise of judicial jurisdiction as was expressed by the Supreme Court in [Francis Karioko Muruatetu & Another -V- Republic](#) (2017) eKLR where the Court held: -

“(72) we wish to make it very clear that these guidelines in no way replace judicial discretion. They are advisory and not mandatory. They are geared to



promoting consistency and transparency in sentencing hearings. They are also aimed at promoting public understanding of the sentencing process”.

5. Page 15, paragraph 4.1 of the [Sentencing Policy Guidelines](#) provides as follows:

-

- i. Retribution; to punish the offender for his/her criminal conduct in a just manner;
- ii. Deterrence; to deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences;
- iii. Rehabilitation; to enable the offender reform from his/her criminal disposition and become a law-abiding person;
- iv. Restorative justice; to address the needs arising from the criminal conduct such as loss and damages;
- v. Community Protection; to police the community by incapacitating the offender.
- vi. Denunciation; to communicate the community’s condemnation of the criminal conduct.
- vii. Reconciliation; to mend the relationship between the offender the victim and the community
- viii. Reintegration; To facilitate the re-entry of the offender into the society.

6. In sentencing, the court also considers various mitigating factors. (See Muruatetu Case)

- i. Age of the offender;
- ii. Being a first offender;
- iii. Whether the offender pleaded guilty;
- iv. Character and record of the offender;
- v. Commission of the offence in response to gender-based violence;
- vi. Remorsefulness of the offender;
- vii. The possibility of reform and social re-adaptation of the offender;
- viii. Any other factor that the court considers relevant.

7. This Court has considered the mitigation by the Counsel and the reports on record. The prosecution did not have the accused’s person previous record and treated him as a first offender. In his mitigation, the accused was said to be remorseful; he has a young family and is concerned of the present circumstances of his one-year old child who is left to grow up without a father figure. He therefore pleaded for leniency.

8. From the victim impact statement, the deceased was a married man and the only son in his family. He left behind a widow and three children. His father has taken the responsibility of looking after his son’s family and is struggling to sustain the entire family. The report also shows that the deceased family has been negatively affected by the death of their loved one and are yet to heal.

9. Having taken his mitigation into account, the fact that he is a first offender, the presentence report, the victim impact statement and the circumstances surrounding the commission of the offence, this court considers a deterrence sentence appropriate. I therefore sentence the accused person to serve fifteen (20) years’ imprisonment.



10. From the record the accused person was first arraigned in court on 13/2/2024. He remained in custody and was released on bond on 6/3/2025. He was then convicted on 25/9/2025. The computation of his 20 years' imprisonment is inclusive of the 12 months spent in custody.
11. Right of appeal against both the judgement and sentence explained to the accused person in Kiswahili.
12. It is so ordered.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 29TH DAY OF JANUARY 2026.  
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

In the presence of;-

**WENDY KAGENDO MICHENI**

**JUDGE**

The Offender And His Advocate Ms Munyari Mr Sirima For The State

Bebora Court Assistant

Signed By/for:

**HON. LADY JUSTICE WENDY MICHENI**

