

**PUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BOMET**

**CRIMINAL CASE NO. 9 OF 2020**

**REPUBLIC.....**

**.....PROSECUTION**

**VERSUS**

**EVANS KIPIYEGON NGETICH.....ACCUSED**

**JUDGEMENT AND SENTENCE.**

1. The Accused, Evans Kipyegon Ngetich 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 were that on 22<sup>nd</sup> day of April, 2020 at Raiya Village of Bomet Township Sub-Location within Bomet County, he murdered Risper Chelangat.

2. The Accused took plea on 30<sup>th</sup> June, 2020 and pleaded not guilty to the offence.
3. A duly executed Plea Bargaining Agreement filed on 6<sup>th</sup> November, 2025 was filed in court and it indicated that the Accused had agreed to plead guilty to the lesser offence of manslaughter.
4. On 19th November, 2025 this court accepted the Plea Agreement after interviewing the Accused and satisfying itself that he executed the Plea Agreement voluntarily.
5. On the same day (19th November, 2025), the Accused took plea for the offence of manslaughter. The charge and every element thereof was read and explained to him in the Kiswahili language which he understood and he pleaded guilty. The

court entered a plea of guilty for the offence of manslaughter.

6. The facts as read by the Prosecutor and captured in the Plea Agreement are as follows:-

**“That the deceased Risper was having love relationship and married in 2013. In 2020 they separated. Risper went away with two children. On 22<sup>nd</sup> April, 2020 at around 1630hours, the accused saw Joan Jebet from a forest. Her clothes were wet yet it had not rained. After a while Joan heard screams. She found a crowd of people and told Risper had died. The body was at the Longisa County Referral Hospital. A postmortem was conducted by one Dr Mutai Nickson who formed an opinion that the deceased died due to severe spinal injury secondary to assault”.**

**On 30<sup>th</sup> April, 2020, the Accused herein was arrested and later arraigned in court with the charge of murder and which offence has now commuted to a charge of manslaughter.”**

7. The Accused accepted the facts as true and the court convicted him on his own guilty plea for the lesser offence of manslaughter contrary to **section 202 as read with section 205 of the Penal Code.**

#### **Pre-Sentence Report**

8. That the Accused was repentant and regretted the offence as he had no intention of killing the deceased. The Accused asked this court for leniency.

9. The report stated that the victim's family had accepted forgiveness from the offender's family. They confirmed that the offender's family approached them in a spirit of reconciliation and that they have forgiven the offender. All customary rites have been fully concluded.

**Victim Impact Statement.**

10. The victim who is the deceased person had separated with the accused, she informed the mother that she was going to meet the accused she left home on 17<sup>th</sup> April, 2020 at 5.00pm never to return. The victim died leaving behind two children who depended on her for sustenance. The children were aged 7 and 2 years old respectively. The victim was on her prime age to enjoy the life which was cut short by the accused, whom she solely expected to provide and protect his family. The behaviour of the accused has left the two children

exposed to harsh life of living a parent to look after them. The fact that the accused had subjected the victim to cruelty to the point of returning back to her parents shows the accused is a violent person that should not receive any mercy.

### **Accused's Mitigation**

11. On mitigation, the accused is remorseful and regrets the circumstances under which he committed the offence. He understands well the seriousness of the offence and is well aware of the consequences that come along with it. He wishes that he be given a non-custodial sentence. He further undertakes to comply fully with any conditions that this Honourable Court may deem appropriate.

12. The Accused was invited to address the court in person and he admitted to committing the offence.

That it was not his will that he committed the offence.

### **Submissions by the State**

13. Mr. Ayekha Shakwila the learned Prosecution Counsel submitted that the fact that the Accused agreed to save the court's time by pleading to a lesser charge of manslaughter, it should not vitiate the harm he caused to the society by killing a fellow human being. He further submitted that the court sentences the accused to a deterrence sentence of over 20 years imprisonment.

14. Sentencing serves multiple purposes as enumerated in the **Sentencing Policy Guidelines 2023** which outline the objectives of sentencing at paragraph 1.3.1 as follows:-

**Sentences are imposed to meet the following objectives. There will be instances in which the objectives may conflict with each other- in so far as possible, sentences imposed should be geared towards meeting the objectives in totality.**

- i. Retribution.**
- ii. Deterrence.**
- iii. Rehabilitation.**
- iv. Restorative justice.**
- v. Community Protection.**
- vi. Denunciation.**
- vii. Reconciliation.**
- viii. Reintegration.**

15. The penal section for the offence of manslaughter is contained in **section 205 of the Penal Code** which provides:-

**Any person who commits the felony of manslaughter is liable to imprisonment for life.**

16. I have considered the circumstances of the case.

The deceased was the offender's wife. The couple had been separated for about one month, during which time the deceased had been living with her parents together with their two children. On the material day, the two met at a local drinking den within their locality. While intoxicated, they discussed reconciling and agreed to return home together. However, while on their way home, a quarrel arose between them. As both parties were intoxicated, the disagreement quickly escalated with neither willing to de-escalate the situation. In a moment of agitation and emotional instability, the offender picked up a wooden log and struck the deceased on the head. She immediately fell to the

ground and lost consciousness. Upon realizing the seriousness of the situation, the offender fled the scene.

17. I have also considered the Accused's mitigation that he was remorseful and regretted the event. This court appreciates the fact that the family of the victim accepted forgiveness from the offender's family and also the broader community supports his reintegration.

18. The **Sentencing Policy Guidelines 2023** at paragraph 2.3.15 lists the factors that a court should consider when deciding to impose a custodial or non-custodial sentence. They are as follows:-

- i) **Gravity of the offence: In the absence of aggravating circumstances, or any other circumstance that renders a non-custodial**

**sentence unsuitable, a sentence of imprisonment should be avoided with respect to sentences that have been adjudged as deserving less than three (3) years.**

**ii) Criminal history of the offender: Taking into account the seriousness of the offence, first offenders should be considered for non-custodial sentences except where the seriousness of the offence crosses the custody threshold (where the offence is so serious that neither a fine or community sentence can be justified).**

**iii) Children in conflict with the law: Generally speaking, non-custodial orders should be imposed as a matter of course in the case of children in conflict with the law. The exception to this is in circumstances**

**where in light of the seriousness of the offence, coupled with other factors, the court is satisfied that a custodial order is the most appropriate and would be in the child's best interest. Custodial orders should only be meted out as a measure of last resort and in accordance with the guidance provided under section 239 of the Children's Act, 2022. The court shall also issue post-committal supervision orders upon completion of the committal orders or the attainment of the age of majority where it is appropriate to so do in light of the nature of the offence and circumstances of the offender.**

- iv) Conduct of the offender: Non-custodial sentences are best suited for offenders who are already remorseful and receptive to rehabilitative measures.**

- v) Protection of the community: Where there is evidence that the offender is likely to pose a threat to the community, a custodial sentence may be more appropriate. The probation officer's reports should inform the court of the risk posed by the offender to the community in order to inform sentencing.**
- vi) Offender's responsibility to third parties: Where committing an offender to a custodial sentence is likely to unduly prejudice others, particularly vulnerable persons who depend on them, a court should consider if, in light of the nature and seriousness of the offence, the objectives of sentencing can be met with a non-custodial sentence. The court should enquire into the offender's personal circumstances and, where**

**appropriate, seek the assistance of a pre-sentence report.**

19. This is also in compliance with Article 159 of the Constitution in as far as alternative dispute resolution is concerned and timely resolution of matters.

20. Flowing from the above, it is my finding that the circumstances of the case and the nature of the deceased's death warranted the Accused to serve a custodial sentence. A custodial sentence will serve as a deterrence to the growing and now common trend of people indulging in alcohol and committing offences then hide behind the effects of alcohol.

21. In the end, the Accused, Evans Kipyegon Ngetich is sentenced to serve 10 years imprisonment. The sentence to run from the date accused was first arraigned in court for plea taking that is on 30<sup>th</sup> June, 2020. Right of appeal 14 days.

**Judgement delivered, dated and signed this 17<sup>th</sup>  
day of March, 2026.**

.....

**J.K.NG'ARNG'AR  
JUDGE**

**Judgement delivered in the presence of:**

**Siele/Susan (Court Assistants)**

**Ms Koech for the state**

**Accused in person**

**Mr Kiprop (Probation Officer)**

ORIGINAL