



**Republic v Ngoso (Criminal Case E037 of 2024)
[2026] KEHC 3949 (KLR) (25 March 2026) (Sentence)**

Neutral citation: [2026] KEHC 3949 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
CRIMINAL CASE E037 OF 2024
RM MWONGO, J
MARCH 25, 2026**

BETWEEN

REPUBLIC PROSECUTION

AND

JENESIO FUNDI NGOSO ACCUSED

SENTENCE

The Charge

1. The accused was charged with murder contrary to Section 203 as read together with Section 204 of the Penal Code. The particulars of the offence are that on 12th November 2024 at Irabari village, Kithunthiri location in Mbeere South subcounty within Embu County, the accused murdered Gladys Thaara Nthiga.
2. The accused pleaded not guilty and the plea was duly entered.

Plea-Bargaining Agreement (PBA)

3. At the point of pretrial, the parties entered into a Plea-Bargaining Agreement dated 11th November 2025 signed by the accused, his advocate and the prosecution counsel. Through the PBA the accused pleaded guilty to the offence of manslaughter contrary to section 202 as read with 205 of the Penal Code. The PBA was availed in court together with Court’s compliance form for recording the plea agreement and the Prosecution’s fact sheet.
4. The court was satisfied that the accused person understood his rights under section 137F of the Criminal Procedure Code before entering into the PBA, evidenced by his signature in the Court Form and PBA. Consequently, the Plea Agreement and the said Court Form have been adopted as part of the court record.



5. Accordingly, the accused person was convicted with the offence of Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code. Under Section 205 of the Penal Code, the punishment for Manslaughter is imprisonment for life.

Mitigation

6. In mitigation, the accused person stated that he is remorseful. He is a 30-year-old man, a father of 2 children who have no other guardian besides him since their mother is the deceased. He stated that the children live with a relative and that the family of the deceased has forgiven him. According to the mental examination report dated 14th November 2024, the accused was diagnosed with a mental illness and was placed on medication since November 2024. It was the accused's statement that the offence could have been motivated by the mental illness. He prayed for a non-custodial sentence to enable him to continue with his medication.

Response to Mitigation

7. In response to mitigation, the prosecution opposed the accused's prayer for non-custodial sentence stating that that deceased was a mother of 2 children aged 10 and 6 years old; That the children witnessed the incident and have been subjected to psychological torture. It stated that the mother of the victim was agreeable to the plea-bargaining arrangement but not to a non-custodial sentence. It prayed for a custodial sentence of 4 years imprisonment together with 3 years non-custodial sentence, to maintain accountability and public confidence in the justice system. It also drew the court's attention to the fact that there was a second victim who suffered grievous harm from the same incident.

The Probation Officer's Pre-Sentence Report (POR)

8. According to the probation officer's report dated 24th November 2025, the family of the accused recommended that he be given a short custodial sentence combined with a non-custodial sentence in the manner recommended by the prosecution. The POR noted that the accused was diagnosed with a mental illness in September 2024 and he was immediately placed under medication for the same. That before this, he was a known peddler of bhang in the village and there was the possibility that he was also using the substance even though he was not known to use it openly.
9. The POR revealed that the accused killed the deceased after suspecting that she was having an affair with the farmhand. It detailed that the family of the deceased is still in grief following the death of their kin and they prefer if the accused would be handed a short custodial sentence. The community left the matter of sentencing to the court to determine it as it deemed fit. The POR recommended a short-term custodial sentence to enable structured rehabilitation.

The Facts

10. The agreed facts of the case are as follows:
 1. On 12th November 2024, at around 6:00 a.m., the accused person woke up and went outside to his car. Shortly thereafter, he returned to the house and found the deceased, his wife, already awake. The accused then held her by the hand and dragged her into another room where their farmhand, one Peter Njue, was sleeping. Sensing danger, the deceased called out the farmhand's name to alert him, and he woke up.
 2. The accused picked up a walking stick that was nearby and attempted to hit the deceased. However, the farm hand intervened to shield her, but the accused struck her on the head, breaking the walking stick and causing her to fall down. The accused then threw the broken



stick into the bathroom, went outside, and locked both the deceased and the farmhand inside the latter's room.

3. He then went to his car, retrieved a panga, and returned to the locked room. Upon opening the door, he attacked the farmhand, cutting him several times on the head, abdomen, neck, and both hands, severing one of his fingers. The farmhand managed to escape and ran toward the road, with the accused chasing after him unsuccessfully.
4. The accused then returned to the farmhand's room, where he found the deceased lying unconscious on the floor. Using the same panga, he cut through her neck, severing her trachea, and inflicted four deep cuts to the back of her neck, exposing brain matter. He also attempted to dismember her left upper arm.
5. After the incident, the accused went to his brother's house and informed him of what he had done. Throughout the ordeal, the couple's children, aged 9 and 5 years respectively, were screaming in their bedroom, which was directly opposite the farmhand's room.
6. The accused later surrendered himself at Kiritiri Police Station, where he reported the incident. The OCS Kiritiri Police Station, SCCIO Mbeere South, and the Crime Scene Investigation Officer visited and documented the scene. The body of the deceased was subsequently moved to Embu Level 5 Hospital Mortuary for preservation pending post-mortem examination.
7. On 14th November, 2024, in the presence of Jedida Mucheru and Steven Nyaga who identified the body, a Post Mortem of the deceased was at conducted by Dr. Mwaniki at Embu Level 5 Hospital Mortuary. The doctor formed the opinion that cause of death was exsanguination following multiple cut wounds, with associated traumatic brain injury.
8. Upon being mentally examined, the accused person was found fit to stand trial and was then charged with the offence of Murder, which has now been reduced to Manslaughter.

Analysis and Determination

11. Under section 205 of the Penal Code, the accused is obliged to face a punishment of life imprisonment. In April 2025, the Supreme Court found determined a life imprisonment sentence to be lawful and applicable. This finding was made in the cases of 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) (Manyeso case). There, the Apex Court held that only Parliament bears the power to revise a sentence prescribed under a statute. This, notwithstanding, the court should exercise its discretion depending on the circumstances of the case.
12. In the present case however, there is an overarching issue that ought to be determined before a sentence is meted out upon the accused. In his mitigation, the accused person stated that in September 2024, he was diagnosed with a mental illness. Within a month, thereafter, he killed the deceased on 12th November 2024. A few days after he was arrested, a mental examination was conducted on him. A report on the examination was authored by Dr. Joseph Thuo of Embu Level 5 Hospital and is dated 14th November 2024. The doctor stated that the accused was a patient in the named facility after he was diagnosed with a mental illness. The report also stated that the accused was referred to Mathari National Hospital for further treatment after he was diagnosed. That he had overt symptoms of mental illness that were being medicated, although he was found fit to plead at the time of the report.
13. Being fit to plead, the accused entered into the PBA herein. All the parties interviewed in the POR recommended a short custodial sentence or the same combined with a non-custodial sentence. However, no submissions were made for consideration as to the place of such custody if the court were



to so order, nor as to prognostic medication. It remains a fact that the accused was diagnosed with a mental illness and this will affect the decision of the court as to the appropriate place to hold him if at all a custodial sentence is to be considered. It will also inform the court on the nature of any non-custodial sentence imposed.

14. For purposes of sentencing, it is imperative that a further and current, mental assessment should be conducted to ascertain the accused's mental state and history of the illness and treatment regimen, if any.
15. Once the comprehensive mental assessment report has been availed, the court will conclusively consider the issue of sentencing.
16. To this end, it is ordered that a comprehensive mental examination report from Embu Level 5 Hospital be obtained detailing the accused's current mental state; any treatment he is on; and any treatment regimen into which he should subsequently be placed. Once this report is received, the court will consider the same and mete an appropriate sentence.
17. Orders accordingly.

DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 25TH DAY OF MARCH, 2026.

R. MWONGO

JUDGE

Delivered in the presence of:

Accused Present in Court

Kimanzi for Accused.

No Representation for DPP

Francis Munyao - Court Assistant

