

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO.E016 OF 2023

REPUBLIC.....STATE

VERSUS

MORRIS NJUGUNA MWANGI.....ACCUSED PERSON

RULING ON SENTENCE

1. The Accused person, **MORRIS NJUGUNA MWANGI**, was initially charged with the offence of **Murder contrary to Section 203 as read with Section 204 of the Penal Code.**

The particulars of the offence are that:-

“On the 17th April, 2023 at Karugaru location in Ruiru Sub County within Kiambu County , the Accused murdered RYSPA NDUNGE VAATI.”

2. The Accused was arraigned in court on 20th May, 2023 whereby he was informed of the reason he was in court and the court ordered that he be escorted to Mathare National Teaching and Referral Hospital for mental assessment while the Deputy Registrar was directed to assign him an advocate to represent him during the trial.

3. The Accused was assessed by a psychiatric and found Fit to Plead and assigned legal representation on 7th October, 2024, he pleaded '**Not Guilty**' to the offence of Murder and a Plea of Not Guilty was entered for him by the court. However, even before trial could commence, the Accused person elected to request and entered into a Plea Bargain Agreement with the Director of Public Prosecutions(DPP), which agreement is dated 18th March, 2025. The charge of Murder was thus substituted with a lesser charge of **Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code**. And on 9th October, 2025, the accused pleaded '**Guilty**' to the offence of Manslaughter by stating in Kiswahili "***Ninakubali.***" (*Translated into English language to mean ' I agree'*).

4. The facts of the case as stated by the Prosecution's Counsel are that on the material day of 18th April, 2023, **CPL Zablon Atubwa** was on duty when he was informed of an incident at Miti Kenda. He proceeded to the scene while accompanied by **P. C. Kuria**, where and on arrival, they found a luggage in the nature of a suitcase in a white polythene sack. That **Corporal Zablon** contacted the Scenes of Crime Personnel who came to the scene. The officers opened the suitcase and found that it contained a female body

with physical injuries on the right side of the head and right eye. The scene was processed and the body was taken to the City Mortuary for preservation and to await for the deceased's relatives to be traced. Investigations were conducted and later, the accused person was traced and arrested. He confirmed that the deceased was his wife, **Risper Ndunge Bahati** and that they had quarrelled at **Fish Pit Hub Hotel** where they both used to work. On interrogation, the accused admitted that he had hit the deceased on the head and she died instantly. He then put her body in the suitcase, then into the polythene bag. It was established that they had been having marital problems.

5. In the course of investigations, the accused led the investigative team to the place where he had bought the white sack and also to Mukungu area where the deceased's phone was recovered from one **Francis Chege Njoroge**. That one **Brian Gitau Wanjiku** told the investigating team that he had seen the accused with the white sack that had been used to carry the deceased and he had told him that they had marital problems. That another witness by name **Stephen Mwangi**, the Manager of Fish Hub stated that he gave the accused permission to go buy a sack after he told him that he was relocating.

6. A post mortem examination was conducted on the body of the deceased

which established that there was no conclusion on the cause of deceased's death as at the time the same was pending toxicology examination. However, the results from the Toxicological examination were later released on 6th May, 2023 and it was revealed that the probable cause of deceased's death was head injury due to blunt force trauma.

7. The Prosecution's Counsel produced the Post mortem examination report dated 25th April, 2023 as **PEXB1(a)**, Autopsy Summary Examination dated 6th May, 2023 as **PEXB 1(b)** and a Bunch of photographs **PEXB 2(a)** alongside a Certificate of the same dated 4th May, 2025 as **PEXB 2(b)**.
8. The accused person confirmed that the facts were true and the court proceeded to convict him on his own Plea of Guilt.
9. The prosecution's counsel informed court that the accused person had no previous records.
10. **M/S Nyiguto**, Counsel for the accused person, mitigated on his behalf and stated that the accused is very remorseful for the offence and had personally sought forgiveness from the victim's family in a meeting between the Bahati family of the victim and relatives of the accused which was held and

facilitated by the Chief of Kasari area so that there is hope for reconciliation. Counsel also submitted that the accused has saved judicial time and resources by pleading guilty to a lesser charge of Manslaughter. He is said to be a first offender, and as the only son to his mother, **Jacinta**, he was the sole provider for his family. Counsel submitted that the accused has been in custody since 17th April, 2023, which period she prays the court considers in passing sentence against the accused. She further states that the accused has taken up and obtained various Certificates from Bible School for the several courses undertaken while in custody whereby he has become an ardent Christian, a sign that he has reformed. Counsel sought that the accused be granted a second chance.

11. To determine the appropriate sentence for the accused, the court called for a social inquiry to be conducted on the accused by the **Probation and Aftercare Services Department** and for a **pre-sentence report** to be filed. The pre-sentence report was filed on **31st November, 2025**, and it is noted therein that in compiling the said report, the Probation Officer has indicated that in conducting a social inquiry on the accused, she took into consideration, the accused's family background, his personal history, the circumstances of the offence, his attitude towards the offence, the views of

the victim's family, the community's attitude towards the nature of offender and the offence to come up with recommendations therein.

12. In the conclusion, the Probation Officer established that the Accused is said to be thirty-one (31) years old with no social responsibilities and has no previous criminal records. It is also reported that the accused is remorseful for the offence and begs for pardon from the victim's family, his own family and the community. It has been pointed out that his mother has been supportive throughout the case and has approached the victim's family for reconciliation although this was not successful and thus pleads for court's mercy.

13. On the part of the victim's family, the court acknowledged that they are yet to come to terms with the death of their kin and pray to get justice. The local administration state that although the accused has no previous criminal records, they indicate that they did not know him after arrest. However, they note that the crime was in the public domain with Media coverage and is one of the cases that sparked public activism and fuelled campaigns against femicide in the country. The administrators and the community have urged the court to give a lenient sentence but were reluctant to support the accused person's community based rehabilitation.

14. In the recommendation, the Probation Officer holds that given the magnitude and effects of the offence, victim's family desire for justice, lack of social and community systems to support the accused's community based rehabilitation a custodial sentence is more appropriate.

Determination

15. The accused is charged with the offence of **Manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.**

16. **Section 202** states that:-

[202] Manslaughter

(1) Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed manslaughter.

(2) An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intention to cause death or bodily harm.

17. **Section 205** provides for the sentence for a charge of Manslaughter in the

following terms:-

“Any person who commits the felony of manslaughter is liable imprisonment for life”.

18. The court has carefully examined the entire record of proceedings, the circumstances under which the offence was committed, accused Person's records, mitigation by his counsel and himself, Pre-sentence report alongside the victim's and community's sentiments to determine the most proportionate sentence to mete out against the accused/convict in this case.

19. In weighing these considerations, this Court is mindful that the offence of Manslaughter, though lesser than the offence of Murder, is by its very nature still grave and also carries the highest degree of moral and legal opprobrium. The court is also alive to the fact that the principle of proportionality in sentencing demands that the punishment imposed reflects not only the gravity of the offence but also the degree of blame worthiness of the offender.

20. In considering what the appropriate sentence would be in this case, this Court is guided by the objectives of sentencing as set out in the **Sentencing Policy Guidelines, 2023**, wherein at **Paragraph 1.3.1** they are identified to include *retribution, deterrence, rehabilitation, restorative, justly, community*

protection denunciation, reconciliation and reintegration. These objectives are not to be applied in isolation but holistically in a manner that advances justice to the victim, the offender and community alike.

21. The court has also taken into account the amended guidelines in the **Muruatetu II case(supra)** which include a consideration of the circumstances under which the offence was committed, an accused person's record, his election to plead guilty to a lesser charge of Manslaughter, his family's background and victim's sentiments. It is also note-worthy that jurisprudence from our superior court has repeatedly emphasised that sentencing must be individualised, proportionate and constitutionally compliant.

22. Therefore, the overarching principle is that a sentence must fit both the offence and the offender while striking a balance between retribution of the offence, deterrence of future wrong doing, rehabilitation of the offender, the rights of the victim and safety of society. Thus, this Court must ensure that no single objective of sentencing overwhelms the others lest justice be shelved either against the offender or the victim.

23. Applying these principle to this case, the court agrees with the Probation

Officer that the accused cannot benefit from a non-custodial sentence. This is owing to the heinous manner in which the offence was committed and how he even put the deceased's body in a suit case and into a sack. The court has to grant justice to the victim's family who are still grieving and in shock over the death of their kin.

24. The court has also noted that this is a case of femicide where the deceased was killed by her partner at their work place. It is not clear from the facts what the motivation for this was. There has been public outcry against these killings and hence the need for this court to take firm action to stop its escalation and the or end. This impunity by holding the perpetrators accountable, punishing them so that a zero tolerance of violence against women and girls is established. Further, the court notes that community based rehabilitation is not an option and even in this case, the local administration is reluctant to offer the same.

25. It is therefore appreciated that while no sentence can ever restore the life of the deceased or fully assuage the grief of her family, the court is satisfied that the most appropriate course is to order for a determinable custodial sentence that recognises the seriousness of the offence while equally

appreciating the accused person's record, demonstrated rehabilitation and election to plead guilty to a lesser charge of Manslaughter and time spent in custody during trial.

26. For the aforesaid reasons, the Court proceeds to sentence the Accused person, **MORRIS NJUGUNA MWANGI** to a determinable sentence of thirty (30) years imprisonment which it finds is just and proportionate. The said sentence shall take into account the period spent in custody in accordance with the provisions of **Section 333 of the Criminal Procedure Code**.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU
THIS 17TH DAY OF MARCH, 2026.

D. O. CHEPKWONY
JUDGE

In the presence of:
M/S Muriu counsel for the State
M/S Nyaguto counsel for the accused
Accused - present
Court Assistant - Martin