

**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. E020 OF 2022**

**(CORAM: HON. CHARLES M. KARIUKI - J)**

**REPUBLIC.....**

**.....PROSECUTOR**

**VERSUS**

**ROBERT LEPARAKUO MASIKONDE.....**

**..... ACCUSED**

**SENTENCING**

**A. INTRODUCTION**

- 1) The accused person, Robert Leparakuo Masikonde, was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. Pursuant to a plea agreement dated 21st October 2025 entered under Sections 137A-O of the Criminal Procedure Code, the charge was reduced to manslaughter contrary to Section 202 as read with Section 205 of the Penal Code.
- 2) The court satisfied itself that the plea was entered freely and voluntarily. The accused admitted the facts as set out in paragraph 9 of

the plea agreement. The prosecution produced exhibits including the postmortem report dated 15th November 2022 (P. Exhibit 1), a blood-stained Maasai rungu, and clothing (P. Exhibits 2 and 3).

- 3) According to the agreed facts, the offence occurred on 13th November 2022 at Likia Village, Narok County, where the accused, in the course of a confrontation at night, fatally assaulted the deceased, Dennis Masikonde, causing severe head injuries that led to death.
- 4) The pre-sentence report dated 10th November 2025 was filed and considered by the court.

#### **B. Mitigation and Aggravation**

- 5) In mitigation, the accused is a 33-year-old man who expressed remorse and regret for his actions. He stated that he is desirous of reform, reconciliation with family members, and becoming a better person. He pleaded for leniency and an opportunity for rehabilitation.
- 6) The prosecution, however, submitted that the accused has a previous criminal record, having been convicted in 2016 for the offence of stealing stock and sentenced to two years' imprisonment. It was further submitted that the present offence was committed shortly after his release.
- 7) The pre-sentence report paints a more detailed picture. While the accused claims provocation and lack of intent, the victim's family and community members strongly dispute this version, asserting that the attack was intentional and unprovoked. The report further indicates that

the accused had exhibited violent tendencies in the past, including issuing threats to family members, and had a history of substance abuse.

- 8) The victim's family remains deeply affected, noting that the deceased left behind a young family, including school-going children, who depended on him. Both the family and the community expressed fear and apprehension regarding the accused's return, and urged the court to impose a deterrent custodial sentence.

### **C. Applicable Law and Principles**

- 9) The offence of manslaughter under Section 205 of the Penal Code carries a maximum sentence of life imprisonment. Sentencing, however, is a matter of judicial discretion guided by established principles.
- 10) In **Francis Karioko Muruatetu & another v Republic; Katiba Institute & 5 others (Amicus Curiae) [2021] eKLR Petition 15 & 16 (Consolidated) of 2015**, the Supreme Court emphasised that sentencing must be individualised, proportionate, and take into account both mitigating and aggravating factors.
- 11) In **Francis Karioko Muruatetu & Another v Republic**, as clarified in **Francis Karioko Muruatetu & Another v Republic (Directions)**, the Supreme Court emphasised that sentencing is a discretionary exercise requiring consideration of the circumstances of each case.

However, the decision is confined to murder cases. The general principles on individualised sentencing nonetheless apply.

- 12) Further guidance is found in the Judiciary Sentencing Policy Guidelines, which outline key objectives of sentencing, including retribution, deterrence, rehabilitation, restorative justice, and community protection.
- 13) In manslaughter cases arising from violent confrontations, the court must balance the loss of life with the circumstances of the offence, including whether there was provocation, self-defence, or excessive force, and impose a sentence that meets the ends of justice.
- 14) Similarly, where the offence involves family members and lingering community tension, a custodial sentence serves both deterrence and community protection, particularly where the offender poses a risk of reoffending.
- 15) Additionally, in **Republic -vs- Thomas Gilbert Cholmondeley (2009) eKLR**, the court emphasised that in manslaughter cases, the sentence must reflect the circumstances of the offence, including the degree of culpability and the conduct of the offender.

#### **D. Analysis and Determination**

- 16) The court has carefully considered the circumstances of this case.
- 17) First, the offence resulted in the loss of human life. The deceased suffered severe head injuries from multiple cuts, indicating a high

degree of violence. Even though the charge was reduced to manslaughter, the gravity of the harm remains significant.

18) Second, while the accused claims provocation and self-defence, the pre-sentence report casts doubt on this narrative. Independent accounts from the victim's family and community suggest that the attack may have been unprovoked and deliberate. This diminishes the weight of the accused's mitigation.

19) Third, the accused has a prior criminal record. The fact that he committed the present offence after serving a custodial sentence for a previous offence points to a pattern of disregard for the law and weighs heavily as an aggravating factor.

20) Fourth, although the accused expressed remorse, the court must balance this against the sentiments of the victim's family and the community, who remain fearful and opposed to his immediate reintegration.

21) Fifth, the court takes into account the plea agreement. By pleading guilty, the accused saved judicial time and spared witnesses the ordeal of trial. This entitles him to some measure of leniency.

22) Balancing all these factors, the court finds that a non-custodial sentence would be wholly inappropriate. The objectives of deterrence, retribution, and community protection outweigh the mitigating factors. At the same time, the court must leave room for rehabilitation.

23)The court is also guided by recent jurisprudence that manslaughter sentences must reflect not only the offender’s culpability but also the impact on the victim’s family and the need to maintain public confidence in the administration of justice. In the present case, the death of the deceased, a family man with dependants, coupled with the fear expressed by the community, calls for a sentence that denounces the conduct and safeguards the community.

**E. Sentence**

24)Accordingly, the accused, Robert Leparakuo Masikonde, is hereby sentenced to: fifteen (15) years’ imprisonment. Having taken into account the period he has been in custody.

25)The sentence shall run from the date of arraignment, being 15th November 2022, pursuant to Section 333(2) of the Criminal Procedure Code.

26) It is so ordered.

**DATED, SIGNED, AND DELIVERED AT NAROK THROUGH THE TEAMS  
APPLICATION, THIS 30<sup>TH</sup> DAY OF APRIL, 2026**

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**CHARLES KARIUKI  
JUDGE**