

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARSEN

CRIMINAL CASE NO. E006 OF 2022

REPUBLIC.....PROSECUTION

VERSUS

KEVIN MBUGUA MAMBO alias KABOGOACCUSED

RULING

1. The accused, Kevin Mbugua Mambo *alias* Kabogo, is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. It is alleged that on 26.8.22 at about 2330 hours at Zebra Village, Lamu West Sub-county, Lamu County, the accused murdered Muthui *alias* Arabu.
2. Following hearing and evaluation of the evidence adduced, the Court convicted the Accused of the lesser charge of manslaughter.
3. The presentence report reveals a young man with a troubled childhood. His parents separated when he was just 8 years old. His mother returned to Kiambu county with her 2 older sons and left the accused with his father in Baharini, Mpeketoni, Lamu County. The accused's father who had 4 wives died in 2018. The accused dropped out of school and was forced to fend for himself at an early age. Due to lack of parental guidance, he acquired friends introduced him to alcohol and drugs. He had been taking all local brews and cannabis including prior to the commission of the offence. The accused's uncle and cousins pray for leniency and are willing to receive him and assist him resettle. The report urged the Court to consider a noncustodial sentence.
4. In mitigation, it was stated that the accused was a first offender. He is remorseful, has learnt his lesson and has vowed to change his ways. He asked the Court for leniency.
5. The maximum sentence for manslaughter is life imprisonment.
6. In the case of **Antony Pareira v State of Maharashtra (2 AIR 2012 SC 3802)** the Supreme Court of India considered the purpose of sentence and stated:

70. Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and

the manner in which the crime is done. There is no straight jacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles; twin objective of the sentencing policy is deterrence and correction. What sentence would meet the end of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances.

7. In sentencing the accused, I have considered the offence and the circumstances leading to the death of the deceased. I have also considered that the accused was intoxicated at the time he committed the offence. The intoxication was however, self-inflicted and that by his action, a life was lost. I have also considered that the accused is a first offender, his troubled childhood as well as his present circumstances. I have also considered his mitigation together with the recommendation by the probation officer.
8. The sentence to be imposed herein must be both corrective and deterrent. Additionally, it must be appropriate, adequate, just, proportionate and commensurate with the nature and gravity of the offence. A non custodial sentence as proposed by the probation officer would in the circumstances be a travesty of justice.
9. Bearing all the foregoing in mind, I sentence the accused to 10 years imprisonment, which shall begin to run from 27.8.22 the day he was arrested.

DATED SIGNED and DELIVERED in MALINDI this 30th day of April 2026

M. THANDE
JUDGE