



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAKURU**  
**CRIMINAL CASE NO. E049 OF 2021**

REPUBLIC.....PROSECUTION  
- VERSUS -  
PETER KORIR KIPYEGON.....CONVICT

**RULING**

1. The Convict **Peter Kipyegon** was charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. He pleaded not guilty to the charge.
2. After a full trial, this Court by the judgement delivered on 14<sup>th</sup> May, 2025, found that the prosecution had not proved malice aforethought beyond reasonable doubt.
3. However, the evidence established that the Convict unlawfully caused the death of the deceased and accordingly, the Convict was convicted of the lesser offence of Manslaughter under **Section 202 (1)** as read with **Section 205** of the **Penal Code**.

4. The Court has had the benefit of a pre-sentence report dated 30<sup>th</sup> July, 2025. The report confirms the family background of both the Convict and the deceased. The report highlights a suspected history of infidelity by the deceased and his wife.
5. The Convict denies committing the offence and prays for leniency, expressing a desire to engage in dialogue with the victim's family and pursue reconciliation through a non-custodial sentence.
6. The primary victims, however, remain deeply traumatized. The widow was overwhelmed and described the process as reopening fresh wounds. She made it clear that she is not ready for reconciliation and strongly desires that the Convict be incarcerated.
7. The secondary family also expressed bitterness. They expressed that the two families have met and were in the final stages of reconciliation including rituals to prevent the tragedy from affecting their lineage. They however maintain that completing the cultural process does not mean the offender should be released for justice to be achieved.
8. The community members interviewed spoke positively about the Convict person describing him as calm and coexisted well with others that the incident came as shock and believe the offence was committed in a moment of anger. The local administration echoes the views of the community. The village elder explained that the Convict had reported concerns about his wife's alleged unfaithfulness and spoke to him severally urging him to remain calm. He noted that the

Convict main problem was the tendency to believe rumors about his wife's allegedly cohabiting with the deceased.

### **Mitigation**

9. In mitigation, counsel for the Convict submitted that the Convict is 51 years old, married, and a father of three children. His first child is studying at Cambridge College, his second child passed away and his third child is currently in secondary school. Counsel further emphasized that the Convict's father who is 97 years old and dependent on him.
10. It was also submitted that the Convict is remorseful for the offence, has reconciled with the family of the deceased and has paid nine (9) cows in compensation. Counsel noted that the Convict has been in custody since 2021 and that the incident arose out of a family matter as the deceased was having an affair with the Convict's wife.
11. On the above basis, counsel prayed for leniency urging the Court to impose a custodial sentence of five years and a non-custodial sentence.

### **Prosecution's Submissions**

12. On its part, the Prosecution submitted that the deceased was a deputy head teacher aged 41 years and a father of five children, the youngest being in grade one. The Court was reminded that the children have lost their father figure and sole breadwinner and their lives have been turned upside down with trauma that continues to subsist.

13. The Prosecution argued that reconciliation, if any, has not reached the primary victims, that reconciliation with secondary family ignore the primary victims. That the wife of the deceased is not open to reconciliation. It was further submitted that both families live in the same locality and a non-custodial sentence would reopen wounds each time they meet.
14. The Prosecution also contended that the Convict, despite conviction, still denies the charges, shows lack of remorse, and remains unrepentant. For justice to be seen to be done, the State urged the Court to impose a custodial sentence.
15. In rejoinder the counsel for Convict stated that the Convict is remorseful by virtues of starting reconciliation and compensation. That the Presentence report does not raise the issue of children ad the loss as expressed by the prosecution.

### **Analysis and Determination**

16. I have considered the facts of this case, the pre-sentencing report, the mitigation and the submissions by the prosecution.
17. The convict having been convicted of the offence of Manslaughter, **Section 205** of the **Penal Code** provides:

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

18. The **Sentencing Policy Guidelines 2023** emphasize deterrence, rehabilitation, proportionality among others requiring Courts to weigh mitigating and aggravating circumstances. In this case, the convict is a first-time offender with significant family responsibilities including care for his elderly father, wife, and children and from the pre-sentence report reconciliation has been pursued.
19. However, the offence resulted in the loss of life, a grave matter that calls for a firm penalty to reflect the gravity of the harm caused. In exercising discretion, the Court must also consider the views of the victim's family whose suffering and expectations of justice are central to sentencing. The punishment should also deter future offences, allow for rehabilitation and preserve the possibility of reconciliation and reintegration.
20. The Sentencing Guidelines are silent on the sentencing of manslaughter and Kenyan Courts rely on precedent to ensure consistency with custodial terms like ten years often serving as a baseline.
21. In ***Makumbi v Republic* [2022] KEHC 15985 (KLR)** the Court was of the view that: -  

***“In considering the appropriate sentence, same offences should attract similar consistent penalties, case law would be the starting point in determining a custodial sentence for manslaughter offenses because the Judiciary Sentencing Policy Guidelines are silent on the path to take***

***in manslaughter instances. In VMK v Republic [20 15] eKLR ten years in jail was given for manslaughter. When a dangerous weapon was used in the commission of the crime, Courts are more likely to sentence the offender to life in prison. There is no proof that the accused utilized such a weapon in this case. [See Republic v Isaac Wanjala Murumba [2021] eKLR]”***

22. The Court has considered that while the Convict continues to maintain his innocence, he has expressed remorse. The Court acknowledges this expression of regret though it is tempered by his denial of responsibility. There is absence of accountability.

23. In the present case, the choice of weapon was a knife which qualifies as a dangerous weapon. This aggravating circumstance necessitates consideration of a harsher penalty such as life imprisonment.

24. The Court ***Republic v Maze [2022] KEHC 11122 (KLR)*** was of a similar view:

***“I take into consideration that the accused used a deadly weapon, for which Courts have meted out life imprisonment where it has been used to commit manslaughter.”***

25. This Court noted that the circumstances surrounding the fight that led to the death of the deceased were unclear and absence of clear aggravating factors, typically leads to more moderate terms.

26. In ***Republic v Barno*** [2025] KEHC 3971 (KLR) the Court sentenced the accused to a custodial sentence of 7 years. In ***Republic v Barno*** [2025] KEHC 3971 (KLR) the accused was sentenced to 15 years imprisonment following accused persons' acceptance of the facts and the plea agreement.
27. In the premise, I am of the view that a custodial sentence would reflect the seriousness of the offence and serve as a deterrent to others while at the same time providing a structured environment for the offender's rehabilitation.
28. I am satisfied that a sentence of ten (10) years imprisonment is commensurate with the offence for which the convict now stands convicted.
29. In accordance with **Section 333(2)** of the **Criminal Procedure Code**, the time spent in custody till date shall be deducted in the sentence.

It is So ordered.

**Signed, Delivered Virtually on Teams platform**  
**On this 27<sup>th</sup> day of April, 2026**



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**Mohochi S.M**  
**JUDGE**