

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KIAMBU**  
**CRIMINAL CASE NO. E029 OF 2024**

**REPUBLIC.....**

**PROSECUTOR**

**VERSUS**

**MARTHA      WANJIRU      MWAURA.....**

**ACCUSED**

**RULING ON SENTENCE**

1. The accused was initially charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; upon a Plea Bargain Agreement being entered this charge was then reduced to manslaughter.
2. The Plea Bargain Agreement dated 25<sup>th</sup> February, 2025 was adopted by the Court upon being satisfied that the accused had understood the contents and that she had executed it voluntarily without promise or benefit and without threats, force, intimidation or coercion of any kind.
3. The accused was charged with having unlawfully killed **JAMES MUNGARA CHEGE** on the 30<sup>th</sup> day of May, 2024 at Muthiga Area in Kikuyu Sub-County within Kiambu County.
4. The facts as read out by the Prosecuting Counsel are as follows; The Accused and her spouse now deceased spent the evening at a local pub called **CINDERELLA** as they

headed home an argument and fight started; the accused overpowered the deceased and he fell and hit his head on a stone; He went to make a report at Regen Police Post where he got no assistance and the incident was never booked. They left and deceased was taken to a pharmacy but got no treatment as they did not have capacity to deal with such injuries; the deceased was taken to his house where he passed out on the sofa chair; with the help of neighbours the deceased was taken to hospital but was declared dead on arrival.

5. A Post Mortem was conducted and the cause of death was established to have been caused an injury to the head. Prosecuting Counsel produced the Post Mortem Report which was marked as **'PExh.1'**;
6. The accused stated that the facts as narrated were correct and the court proceeded to convict her on her own plea of **'Guilty'** for the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code.
7. The accused was represented by Learned Counsel Mr. Gituma whereas Mr. Gacharia was the Prosecuting Counsel for the State; Both Counsel were invited to make submissions before sentencing.
8. In mitigation Counsel for the accused submitted the accused was extremely remorseful and prayed for justice to be tempered with mercy; she was an alcoholic and both had been drunk during the altercation; she had readily pleaded guilty at the earliest onset and thus saved on judicial time;

the prosecution had no previous records and that the accused be treated as a first offender; Counsel urged the Court to consider that the accused was a mother of three and had given birth to her 4<sup>th</sup> child whilst in custody and prayed for a lenient sentence preferably a non-custodial sentence on those grounds.

9. Prosecuting Counsel submitted that a life once snuffed out was irrecoverable and it was imperative that the family of the deceased receive justice; the prosecution had no previous records of the convict; a Pre-sentence Report was called for to assist the Court in the sentencing.

### **ANALYSIS**

10. The applicable law on sentencing for the offence of manslaughter is found under the provisions of Section 205 of the Penal Code which reads as follows;

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

11. It is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are that the accused's anger management issues which clouded her sense of judgment and had used unreasonable force to protect herself during the altercation; The accused ought to have exercised restraint during the altercation that led to a life being lost; The mitigating factors are the accused had recently given birth to her 4<sup>th</sup>

child during the period she was in custody; and by accepting the Plea Bargain Agreement the accused had not wasted judicial time.

12. Having perused the Pre-Sentencing Report, it is noted that the accused had taken any reconciliatory steps with the victims' family; it is noted that the mother of the deceased was present in Court and was allowed to address the Court; She stated that the family had not come to terms with the demise of her beloved son and had not forgiven the accused; she stated that the accused was not a wife to the deceased had another young family and had left behind a wife and three children; she was still bitter and was not willing to forgive her and she was not in favour of the non-custodial sentence.
13. The Pre-sentencing Report recommends a non-custodial sentence. But in the light of the aggravating factors in this instance it was anger management and also as a deterrent to other offenders who want to drink excessive amounts and thereafter engage in bar room brawls, this Court is satisfied that the accused is deserving of a custodial sentence of five (5) years.

### **FINDINGS & DETERMINATIONS**

14. Having taken all factors into consideration this Court makes the following findings and determinations;
  - (i) The accused is convicted on her own plea of guilty for the offence of Manslaughter;

(ii) The accused is hereby sentenced to a five (5) years custodial sentence.

(iii) The period spent in custody from date of arrest 29/05/2024 to the date of sentence be deducted from her term of sentence.

Orders Accordingly.

**DATED, SIGNED AND DELIVERED VIA TEAMS AT  
KIAMBU THIS 15<sup>th</sup> DAY OF MAY, 2026.**

**A. MSHILA  
JUDGE**

**In the presence of;**

Sanja/Millicent - Court Assistants

Gacharia - Prosecuting Counsel for the State

No appearance by Gituma for the Accused

Accused - present in custody