



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT BUSIA**  
**CRIMINAL CASE NO. E005 OF 2025**

**REPUBLIC.....ODPP**

**VERSUS**

**DOUGLAS BUSHURU ANGATIA.....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 the charge was then reduced to manslaughter;
2. The Plea Bargain Agreement dated 10<sup>th</sup> March 2026 was adopted by the court upon it being satisfied that the accused had understood the contents and that he had executed it voluntarily without promise or benefit of any kind and without threats, force, intimidation or coercion;
3. The accused unlawfully killed Mercy Naliaka on the 4<sup>th</sup> day of March, 2025 at Lupida Sub-location, Buhayo north Location within Busia County and was convicted on his own plea of 'Guilty' to the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code;

4. Prosecuting Counsel for the State submitted that, on the 4<sup>th</sup> day of March, 2025, Cpl Evans Sabisa, got call from PC Fred Wanjala, of Sang'alo Post of Bungoma, that the accused had surrendered herself to the station, and said he had killed his wife, Mercy Naliaka, and locked her body at their home at Lupida sub-location, after which Cpl Sabisa, informed the officers to detain him. They traced the home, broke the door, and found the deceased lying on the bedroom. The accused was brought to Nambale Police Station, where he was interrogated, and later on produced before the court to answer to the charges that he is currently facing. Post mortem was conducted, and it was found she had died of severe head injury. The post mortem was accordingly produced as exhibit.
5. The State had on the 10<sup>th</sup> March 2026 made a plea bargain offer to the defense resulting to the plea-bargaining agreement evenly dated 10<sup>th</sup> March 2026.
6. In the Proceedings, the accused was at all times represented by Learned Counsel Mr. Otieno whereas Mr. Antony Onanda was the Prosecuting Counsel for the State; both counsels were invited to make submissions before sentencing;

7. In mitigation counsel for the convict associated himself with the prosecution's submissions that the convict in accepting the Plea Bargain Agreement had not wasted the court's time; he was extremely remorseful and that He surrendered herself to the police. The following report by the police, it was the first statement to the police, it says he was my wife, and had no intention of killing his wife. He realised his mistake.
8. We gave context. He found his wife and another man engaging in sexual activity.
9. A statement which automates provocation and loss of control. By the fact that the accused realised it was wrong, he agreed to submit When a man takes a wife, one hopes only death would part them, but do not force infidelity leading them to the situation that the accused found himself.
10. The mistakes were unfortunate. He accepts and asks the court to have mercy on him.
11. The accused has a child of 4 years. For the purposes of the proceedings a DAB. He stays with the mother of the accused who is aged, and experiences illness on and off. The future of this child rests solely on the accused, and on whether the accused will come back home. As a child he always looks at the gate to see if his father will come home.

12. He has been in custody. He has learned and he ready to be reintegrated in that society. The society has never been hostile to him. There is a possibility of reintegration.
13. He prays that this court does have mercy upon him. He was hoping that since he is in process of restoration and redemption, the court will give him an opportunity to be to be in the society, while acknowledging or working on the mistakes he has done. The Defense urged the court to order for a one-day sentence, taking into account "the battered wife syndrome". Counsel thus urged for a lenient sentence
14. That the Pre-sentence report leave it to the courts discretion on sentence.
15. That the Victim and Convict are related, the deceased was a wife to the convict (husband and wife) they had no issues from their union however the deceased had for children of tender years from previous relationships, the children are now in the custody of the deceased father.

### **ANALYSIS**

16. It is the duty of this court to impose a sentence that meets the facts and circumstances of the case; this court has considered the full circumstances of the offence which is contained in the Facts;

17. The applicable law on sentence 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’**

18. The section provides for the maximum sentence, that is life imprisonment; this court has taken into consideration the aggravating circumstances in that the convict used a deadly weapon namely a knife in committing the offence; but the facts reveal that the killing was not premeditated; the accused in a burst of anger leading to the unfortunate state of affairs;

19. The mitigating factors taken into consideration by this court are that the accused is a 1<sup>st</sup> time offender with no previous criminal record, he readily pleaded guilty and thus saved on judicial time; also taken into consideration are the troubled childhood and personal circumstances of the accused, that he has also expressed his remorse;

20. This Court has equally taken into consideration the age of the convict who is 27 years old.

21. The Court has to weigh the mitigating circumstances against the Aggravating Circumstances that include the accused found his

wife in a compromising situation engaging in a sexual affair with a man, he left the scene after the encounter and went to imbibe alcohol (drown his sorrow) and that returned later only to find the same man with his wife. That the man had a machete(panga) that he grabbed and hacked his wife to death thereafter he surrendered to the police.

22. Instances of Femicide are on the rise and this court is persuaded that this case warrants a custodial sentence of a deterrence nature a life was lost, the deceased left behind three children of tender years that will never benefit from motherly love.

23. This Court accordingly imposes an imprisonment Sentence of Fifteen (15) years to run from the 5<sup>th</sup> March 2025.

It is so Ordered.

**Dated, Signed and Delivered at Busia  
On this day of 12<sup>th</sup> Day of May, 2026**

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**Mohochi S.M  
PRESIDING JUDGE**