

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIAMBU**  
**CRIMINAL CASE NO. E022 OF 2022**

**REPUBLIC**  
**VERSUS**

**BONIFACE KURIA MWANGI .....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 reduced to manslaughter;
2. The Plea Bargain Agreement is dated 18/11/2025 and it 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, threats, force, intimidation or coercion of any kind;
3. The accused was charged with having unlawfully killed **MOSES MACHOKI MAISIBA** on the night of 28<sup>th</sup> day of April, 2022 at Mt Kenya Area, Githurai Sub-County within Kiambu County; he was convicted on his own plea of ‘Guilty’ of the offence of Manslaughter c/s to Section 202 as read with Section 205 of the Penal Code;
4. The facts as read out by the Prosecuting Counsel are as follows; The accused and deceased lived together at Dacha House in Githurai 45. On the material date at about 1.00am the deceased was fetching water on the rooftop when the accused arrived drunk and started a quarrel with the

deceased; There was a neighbor by the name of Moses who tried to intervene and begged them not to continue quarrelling; He then left and went to sleep in his house; After ten (10) minutes he had noise and he came out and found the deceased lying down and the accused was on top of him; he separated them and saw the deceased had been stabbed and was bleeding profusely; Other neighbours came out to try and assist the deceased but he succumbed to his injuries.

5. Police officers arrived and processed the scene and took the body to Kenyatta University Teaching Referral and Research Hospital (KUTRRH) and the deceased was pronounced dead on arrival; On 2/05/2022 a Post Mortem was conducted by Doctor Moturi and the doctor in his Report produced the Post Mortem Report and it was marked as '**PExh.1**' had stated that the cause of death was caused by deep penetrating stab wound to the chest.
6. The accused stated that the facts as narrated were correct and the court proceeded to convict him on his 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 Ms Sinana 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 that the accused was now aged twenty-eight (28) years of age and had committed the offence when he was twenty-two (22) years of age; prior to the commission of the offence the accused was a college student, a man of good character and had no prior record; The socio-economic factors pressured him to commit the crime in that he was in college and struggling to make ends meet and had a pregnant wife and at the time he committed the offence he had come home after a drinking spree; the quarrel arose because he was intoxicated and had overpassed the deceased in the line to fetch water; a fight ensued and the unfortunate incident occurred because he was trying to defend himself against a six (6) foot man whereas he was five (5) point two (2) feet;
9. To demonstrate that he was genuinely remorseful the accused had made several attempts to seek forgiveness and reconciliation with the family of the deceased but had been unsuccessful; whilst in prison so as to regain control of his psychological wellbeing he had undertaken a Counselling

and Therapy course with the intention of helping himself and other fellow inmates from detrimental behavior of alcoholism and substance abuse;

- 10.** It was an unfortunate situation in which a life was lost and regrets the incident ever occurred; The accused had readily pleaded guilty at the earliest onset and thus saved on judicial time; he was extremely remorseful and prayed for justice to be tempered with mercy; he prayed for leniency as he had learnt his lesson and having received training on life skills the accused was ready to be integrated back into society and prayed for a lenient sentence preferably a non-custodial;
- 11.** Counsel pleaded for leniency and urged the court to consider the time spent in custody from 2022 to date;
- 12.** Prosecuting Counsel had requested for a Victim Impact Assessment to be conducted and a Report be submitted to assist the Court in determining an appropriate sentence; Counsel submitted that a life once snuffed out was irrecoverable and the family of the deceased was yet to come to terms with the loss and it was imperative that they receive justice;
- 13.** The aggravating factors was the choice of weapon used in self defence and it was aimed at a very vulnerable part of the body;

**14.** The prosecution submitted that it had no previous records of the convict; but it was imperative that a custodial sentence be imposed to send a message to act as a deterrent on the use of knives or lethal weapons being used in interpersonal disputes; The prosecution was not opposed to the deduction from the sentence of the period spent in custody from the date of arrest which was on 9/06/2022.

### **ANALYSIS**

15. 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'***

16. The life sentence has been declared to be unconstitutional and it has held that an accused person may receive a sentence that could potentially allow him a chance of parole and release at some point in time; The above notwithstanding, it is the duty of this Court to impose a

sentence that meets the facts and circumstances of the case;

17. The aggravating factors are the choice of weapon that had been used by the accused during the dispute over jumping the water queue; in this instance there was no evidence that the action was premeditated; the other aggravating factors are substance abuse and the lack of anger management that led to the unfortunate incident which then led to a needless loss of an precious life and all the accused was interested in was getting water for his household; despite his pre-occupation with his socio-economic stressors he ought to have exercised restraint; the mitigating factors are that the accused was a young man then aged 22 and is now aged 26 years and he is found to have no previous record and is deemed to be a first offender; last but not least is by accepting the Plea Bargain Agreement the accused had not wasted judicial time;
18. Other factors taken into consideration is the Victim Impact Assessment Report; Having perused the Report that despite

the accused and his family having taken reconciliatory steps the family of the victim has not forgiven the accused and it is noted that they are yet to come to terms with their son's demise.

- 19.** In the light of the key aggravating factor that is the weapon of choice this Court finds that a custodial sentence be imposed to send a message and to act as a strong deterrent on the use of knives or lethal weapons being used in interpersonal disputes. that have such unfortunate consequences.
- 20.** This court is satisfied that the accused is undeserving of leniency and or a non-custodial sentence and is instead deserving of a custodial sentence that would be a deterrent to others and finds a custodial sentence of Ten (10) years to be an appropriate sentence.
- 21.** He is found to be deserving of the benefit of proviso to Section 333(2) of the Criminal Procedure Code which section requires this court to take into account the time the offender spent in custody during the trial. The period he was remanded be deducted from the sentence.

## **FINDINGS & DETERMINATIONS**

22. Having taken all factors into consideration this Court makes the following findings and determinations;

- (i) The accused is convicted on his own plea of guilty for the offence of Manslaughter;
- (ii) The accused is hereby sentenced to a Ten (10) years custodial sentence.
- (iii) The period spent in custody from date of arrest on 9/06/2022 to the date of sentencing be deducted from his term of sentence.

**DATED, SIGNED AND DELIVERED VIA AT KIAMBU THIS 8<sup>TH</sup> DAY OF MAY, 2026.**

**A. MSHILA  
JUDGE**

**In the presence of;**

Sanja/Millicent – Court Assistant  
Magoma h/b for Sinana – the Accused  
Kabutha h/b for Gacharia - For the State  
Accused – present from Nairobi Remand