



**Republic v Kirui (Criminal Case E030 of 2022)
[2025] KEHC 591 (KLR) (28 January 2025) (Sentence)**

Neutral citation: [2025] KEHC 591 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E030 OF 2022**

**JM NANG'EA, J
JANUARY 28, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

DENNIS KIMUTAI KIRUI ACCUSED

SENTENCE

1. The accused pleaded guilty to and was convicted of the lesser offence of Manslaughter Contrary to Section 205 of the Penal Code as a culmination of Plea Bargain between him and the prosecution pursuant to Section 317A of the Criminal Procedure Code. The accused had initially been charged with murder. In mitigation submissions through his advocate, Ms Githae, the court was told that the convict is remorseful. He is said to have committed the offence in the heat of the moment after finding the deceased who was his wife in bed with another man. He was also injured in an attempt to take his life after attacking the deceased.
2. The court is urged to take into account that the convict entered into the plea agreement in good faith and has saved judicial time that would otherwise have been utilized in hearing the case in full. The convict's family and that of the deceased have reconciled after traditional compensation was paid.
3. The defence Counsel further asked the court to take into account the fact that the convict has been in custody since his arrest on 2nd June 2022. It is proposed that a 3 year non-custodial sentence is appropriate in the circumstances, Counsel also indicating that he is the sole bread winner of his family.
4. While acknowledging the stated mitigating factors, the Prosecution Counsel (Ms Sang) thinks that a custodial sentence is appropriate considering that a life was lost.
5. The Probation Officer's Report dated 19/12/2024 was filed and has been perused. It is confirmed that traditional reconciliation between the two families where compensation is to be paid, was taking place. The Probation Officer recommends a non-custodial sentence of 3 years.



6. I have considered the mitigation submissions and the fact that the offender has no previous criminal records. The court is also guided by the Judiciary's Sentencing Guidelines. The offender is youthful at 33 years of age and has decided to enter the Plea Agreement thereby saving judicial time.
7. It is clear that the offender was under grave provocation after finding the deceased committing adultery. This was no justification, however, for the brutal attack. The Probation Report appears to show that traditional compensation negotiations are on between the convicts and the deceased's families. This is also a factor to be considered.
8. Taking into account all the relevant factors, the offender is sentenced to five (5) years imprisonment for the offence. He has 14 days to appeal the sentence, which commences from 2/6/2022.

JUDGEMENT DELIVERED IN OPEN COURT THIS 28TH DAY OF JANUARY, 2025 IN THE PRESENCE OF:

J. M. NANG'EA - JUDGE

Ms Sang for the DPP

Ms Githae Advocate for the Accused

The Accused, present

Court Assistant, Jennifer

