



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Njogu (Criminal Case 51 of 2019)
[2025] KEHC 3360 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 3360 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 51 OF 2019**

A MSHILA, J

FEBRUARY 28, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

SAMUEL KAHARA NJOGU ACCUSED

RULING

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 19th November, 2024 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 was charged with having unlawfully killed Margret Wairimu Njogu on the 25th October, 2019 at Irika Village in Gatiha Sub – Location, Githunguri Sub- County within Kiambu County; he was convicted on his own plea of ‘Guilty’ of the offence of Manslaughter Contrary to Section 202 as read with Section 205 of the *Penal Code*.
4. Prosecuting Counsel for the State submitted that by accepting the Plea Bargain the accused had not wasted judicial time; the facts of the case are that the Deceased was the mother of the accused; his parents lived by themselves and the accused lived about half (1/2) a kilometer away; on the 25th October, 2019 George the father of the accused had left his wife Margaret at home as he left to attend a funeral; George returned home at 6.00pm and couldn’t locate his wife and he noted that the kitchen door was locked from inside; upon hearing his wife’s phone ringing from inside he became anxious and suspicious and called three (3) of his neighbours to assist him in breaking the door; he found his wife’s lifeless body lying in a pool of blood; upon being summoned police officers from Githunguri Police



- Station carried out investigations and processed the scene of crime; all the evidence collected pointed to the accused as the person seen by a neighbor one Jedida Wanja entering his parents compound at 10.30am; thereafter the accused was arrested and charged with unlawfully killing his mother.
5. The Post Mortem Report was prepared by Doctor Ndegwa on 29th October, 2019 who stated that the cause of death was severe haemorrhage due to injuries to the head caused by blunt force trauma consistent with assault. The Post Mortem Report was produced into court and marked as 'PEXh.1'.
 6. At the hearing hereof, the accused was represented by Learned Counsel Mr. Olaka whereas Mr. Gacharia was the Prosecuting Counsel for the State. Both counsels were invited to make submissions in mitigation before sentencing.
 7. In mitigation Counsel for the accused submitted that the convict was extremely remorseful for his actions and regretted the loss of life of his mother; he was apologetic to the victim's family and to his children and had reconciled with them and didn't want them subjected to the court process; he pleaded for a non-custodial sentence to enable look after his minor children who were living at the mercy of relatives.
 8. It had no previous records of the accused and that he could be treated as a first offender.
 9. The accused had been arrested and arraigned in court on 8th December, 2020 and never enjoyed the benefits of bail/bond and had therefore spent four (4) years in custody and the period spent in remand be treated as an adequate custodial sentence.
 10. Prosecuting counsel submitted that the 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 Victim Impact Assessment Report was called for to assist in sentencing

Analysis

11. It is the duty of this court to impose a sentence that meets the facts and circumstances of the case; The applicable law on sentencing for the offence 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.”
12. The offence of Manslaughter was punishable by a maximum sentence of life imprisonment; the maximum mandatory sentence is usually reserved for the worst case scenario; but the Court of Appeal in the case of *Manyeso vs Republic* [2023] KECA827 (KLR) declared the mandatory life sentence to be unconstitutional as it was indeterminate, discriminatory, inhumane and a violation of the right to human dignity; and that the accused are entitled to mitigate and a definite sentence as opposed to the mandatory life sentence.
13. This Court has considered the full circumstances of the offence and it is the duty of this Court to impose a sentence that meets the facts and circumstances of the case; The aggravating factors are as follows; there had been a long standing strained mother/son relationship arising from his belief that she was interfering with his marriage; the perceived interference strained the relationship between mother and son and the accused lack of restraint and lack of anger management led to a life being lost; he also fled from the scene and locked his mother inside the kitchen leaving her to bleed excessively instead of seeking medical help for her; the deceased's family have not come to terms with her passing on and they are still devastated in particular George the husband of the deceased and father to the accused went into depression and is traumatized at the mention of the accused's name;



14. The mitigating factors taken into consideration by this Court are that the accused readily pleaded guilty and thus saved the court on judicial time; the accused has reformed and has acquired skills whilst remanded which he states he will utilize to reconcile with his family and also rebuild his life; he has also expressed his remorse and found to have no previous record and is deemed to be a first offender.
15. The aggravating factors in this instance far outweigh the mitigating factors; the accused was the initiator of the domestic violence on his biological mother; even though there was no evidence that the attack was premeditated this Court finds that the accused is deserving of a deterrent custodial sentence proportionate to the gravity of the offence so as to deter others from committing similar crimes; a term of Ten (10) years is found to be an appropriate sentence.
16. It is noted that the accused was arrested on the 27/11/2019 and was granted bail/bond. Being unable to raise the bond he has been in remand for a period of approximately five (5) years during the pendency of the trial; this court therefore invokes the proviso to Section 333(2) of the [Criminal Procedure Code](#) in that the period spent in custody be deducted from the sentence imposed of Ten (10) years.

Findings & Determinations

17. For the foregoing reasons this court makes the following findings and determinations:-
 - i. A custodial sentence of Ten (10) years imprisonment is found to be an appropriate sentence;
 - ii. The period spent in remand be deducted from the sentence.
 - iii. The accused be allowed to carry his Guitar to prisonOrders Accordingly.

DATED, SIGNED AND DELIVERED VIA TEAMS AT KIAMBU THIS 28TH DAY OF FEBRUARY, 2025.

A. MSHILA

JUDGE

In the presence;

Sanja – Court Assistant

Magero – for State

Olaka – for Accused

Accused – present in court- remanded at Nairobi Remand Prison

Language - English

