



**Republic v Wangila (Criminal Case E021 of 2021)
[2025] KEHC 1176 (KLR) (28 February 2025) (Sentence)**

Neutral citation: [2025] KEHC 1176 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CRIMINAL CASE E021 OF 2021**

DK KEMEL, J

FEBRUARY 28, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

ALFRED WANGWE WANGILA ACCUSED

SENTENCE

1. The accused herein Alfred Wangwe Wangila has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. Vide the judgment of this court dated 6th December, 2024, the accused was found guilty and convicted accordingly.
2. Sentencing hearing took place on 21/2/2024. Ms. Wakoli, learned counsel for the defence submitted inter alia; that the accused is remorseful, he regrets the incident and the death of the deceased who was his wife; that the family of the deceased have confirmed having been compensated by the accused's family and have since forgiven the accused; that accused prays for a non-custodial sentence to enable him cater for his children who are in need of his care and love as well as his elderly parents; that the accused is currently undergoing medication; that he is a first offender and that he prays for leniency.
3. Miss Kibet for the prosecution submitted inter alia; that the accused is a first offender; that a life of a vibrant Kenyan citizen was lost; that the deceased had children who relied on her; that the deceased died a painful death due to multiple stab wounds inflicted by the accused; that no compensation has been initiated by the accused's family towards the deceased's family for the loss of their loved one; that she leaves to the court to decide on the nature of sentence to be imposed.
4. This court called for a pre-sentence report by the probation department. The same is dated 31st January, 2025. The same indicates inter alia; that the accused had physical challenges during his tender age which he later overcame and grew up into a healthy adult; that he was able to go through his primary education to completion; that thereafter he enrolled for carpentry training at Mihuu Youth Polytechnic but



dropped due to financial constraints; that he started engaging in casual jobs at home; that later he engaged in motor bike /boda boda operations till his arrest; that the offender got married to the deceased herein Phoebe Nanjala Wangila in 2008 and were blessed with two children namely Brian Wekesa and Brandon Wangwe, Grade 7 and 4 respectively; that prior to the deceased's demise, the deceased used to do casual jobs in Webuye town; that after the death of the deceased, the accused ran away to Kitale town fearing for his life as his house was torched by community members after the incident; that the accused's children were taken care of by paternal grandparents with assistance of the accused's brothers; that the accused has been in custody as well as out on bond during his trial; that the accused consumes busaa; that the accused belongs to a local elder as a Quarter Master at Silila Salvation Army Corp whereas the deceased was also a youth leader and a Sergeant in the same church.

The report further indicated inter alia; that the accused denied committing the offence; that the accused's wife had secured a hotel job in Webuye town and often accused could go pick her and proceed to their marital home and that the following morning travel together on his motor bike to Webuye town to continue working; that on the material day, the accused met with his wife and three other close relatives and friends to resolve a marital issue at a hotel in Webuye town and after resolving and agreeing that the wife returns back to the accused, she never resurfaced at the petrol station where the accused had gone to fuel his motor cycle; that the following morning he was informed of the unfortunate incidence of his wife being found already stabbed severally along the road in Webuye.

The pre-sentence report further indicated that the victim's family currently have no issue or fear with the offender as reconciliation was done through their respective clan members and as per the traditional customs. However, on the contrary, the local administrators oppose the release of the offender back to the community as he will not be accepted by the community as it is still hostile and that he may face retaliation; that accused was involved in petty crimes though often resolved at community level. Further, it was the view of the probation officer that considering the nature of the offence, supervised non-custodial sentence is not suitable for effective rehabilitation and reintegration and that the court should use its discretion to prefer the appropriate sentence.

5. I have considered the mitigating submissions by both learned counsels for the parties herein. Under Section 204 of the *Penal Code*, the punishment for murder is a sentence of death. However, following the decision of the Supreme Court in *Francis Karioko Muruatetu & 2 Others* (2017) eKLR, the mandatory nature of death sentence was declared as unconstitutional and that the courts should receive mitigating circumstances from the offender before imposing an appropriate sentence thereafter and that the courts could as well impose a sentence of death if the circumstances warrant it.
6. From the post mortem report dated 18/8/2023 produced by Dr. Edward Vilembwa (PW3) of Webuye District Hospital, as exhibit 1, it shows that the body of the deceased had three stab wounds on the chest which penetrated the heart; that there were bruises on left humerus and both knees; that the cause of death was penetrating chest injury leading to heart injury due to stab wounds; and that the injuries sustained by the deceased were very severe and which could not allow him to survive.
7. As regards the sentence to be imposed, the Court of Appeal in the case of *Charo Ngumbao Gugudu v. R* (2011) eKLR, held as follows:

“Further, the law is that sentence imposed on an accused person must be commensurate to the moral blameworthiness of the offender and that it is thus not proper exercise for the court to fail to look at the facts and circumstances of the case in their entirety before settling for any given sentence. See *Ambani v. R* (1990) eKLR.”



8. It is noted that the accused upon being released on bond went underground for a long period before he was arrested and presented to court to continue with his case. Any period spent in custody will be considered during the sentencing in line with the provisions of section 333(2) of the *Criminal Procedure Code*.
9. I find the circumstances of the case and the pre-sentence report indicate that the family of the accused have not initiated any reconciliation with the family of the deceased and that the circumstances warrant a custodial rehabilitation for the accused. The pre-sentence report indicates that the accused is not suitable for a non-custodial sentence as the situation on the ground is still hostile and that his safety is not guaranteed since his homestead was razed to the ground in the aftermath of the incident as a show of public anger. The circumstances under which the deceased died are tragic in that the accused herein lured the deceased out of her work place and later waylaid her and then stabbed her in the chest. The injuries inflicted were so severe that she did not have a chance of any survival as she died on arrival at the hospital. Had the accused resorted to other channels of redress in resolving his marital differences with the deceased, she could be alive today. The probation officer was of the view that supervised non-custodial rehabilitation is not suitable in the circumstances. Besides, the accused, upon being released on bond, later jumped bail and it took quite some time before he was traced in Nairobi and presented to court. I find that the custodial rehabilitation will benefit the accused herein before he can be allowed to rejoin the community. The custodial rehabilitation will help to mould him to be a better person before being released back to the society.
10. In the result, I order the accused herein Alfred Wangwe Wangila to serve a sentence of fifteen (15) years' imprisonment which shall commence from the date of arrest namely 11th June, 2021.

DATED AND DELIVERED AT SIAYA THIS 28TH DAY OF FEBRUARY, 2025.

D. KEMEI

JUDGE

In the presence of:

Alfred Wangwe Wangila Accused

Ms. Wakoli for Accused

M/s Karani for Prosecution

Ogendo/Diana Court Assistant

