



**Republic v Ng’ang’a (Criminal Case E006 of 2024)
[2025] KEHC 5490 (KLR) (30 April 2025) (Sentence)**

Neutral citation: [2025] KEHC 5490 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDAMA RAVINE
CRIMINAL CASE E006 OF 2024**

**RB NGETICH, J
APRIL 30, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JOHN KIBUGI NG’ANG’A ACCUSED

SENTENCE

1. The accused person John Kibugi Ng’ang’a had been charged with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the charge were that the accused person on the 24th day of July, 2024 at Shauri Yako estate, Eldama Ravine Location in Koibatek Sub-county within Baringo County murdered Joseph Ng’ang’a Ng’ang’a.
2. The accused denied the charge and the case was set for hearing on the 21st January, 2025 when defence counsel Ms. Kusolo informed the court that they had written to prosecution requesting plea bargain. The prosecution confirmed the position and thus sought for time to meet the victim and discuss on the way forward. The matter was fixed for mention on the 18th February, 2025 to confirm the position on plea bargain.
3. On the 18th March 2025, the plea agreement was duly executed and the charge was eventually reduced to manslaughter following a plea bargain agreement and upon the charge and its particulars being read to the accused, he pleaded guilty to the offence of manslaughter as provided for under Section 202 as read with Section 205 of the Penal Code and he was convicted on their own plea of guilty.

Brief Facts of the Case

4. Facts surrounding this case are that on the 24th July, 2024 at 0800 hrs, a murder report was made at Eldama Ravine police station by one James Orodi a Clinical Officer at Mercy Mission Hospital Eldama Ravine. The murder incident had occurred at Shauri Yako estate in Eldama Ravine. The accused had



stabbed his brother the deceased herein to death and the body was lying at Mercy Mission Hospital. The deceased was declared dead upon arrival at Mercy Mission Hospital where he had been taken by his mother and members of the public.

5. Police officers from Eldama Ravine police station visited the scene at Shauri Yako estate where they established that there was a disagreement between the deceased and the accused resulting in the accused stabbing the deceased on the chest.
6. The officers arrested the accused who was hiding in a maize plantation within their homestead. The accused alleged that the deceased attacked him after asking the deceased why he had taken his phone without his consent. The accused then led the officers to his house which is within the homestead where they recovered the murder weapon a metal knife found under a mattress which was on the accused's bed.
7. The officers documented the scene then proceeded to Mercy Mission Hospital where the body of the deceased was lying. The officers viewed and photographed the body which had a deep cut wound on the left anterior chest wall. After which they proceeded to Eldama Ravine police station where the accused was booked.
8. Postmortem was conducted on the body of the deceased on 30th July, 2024 at Mercy Mission Hospital by Doctor Lucky who formed the opinion that the cause of death was as a result of Homovolemic Shock with Massive (Hemothoraxy and Pericardial) following a Stab Wound Extending to the Myocardial Wall.
9. Upon completion of investigations, the police file was compiled and the accused charged with the offence of Murder now reduced to Manslaughter upon request for Plea bargain. The court directed that a pre-sentence report be filed before mitigation and a copy to be supplied to the prosecution and defence counsel. The court then fixed the matter for mitigation on the 13th February, 2025.

Pre-Sentence Report

10. From the social inquiry, the accused is aged 36 years old. He attended St Patrick primary School from Class one to class 8. He did not proceed to high school owing to financial constraints at home. Upon dropping out of school, the accused started working as a cobbler within Shauri Yako estate as well as selling newspapers. He also engaged himself in doing farm work until the time of his arrest for offence before the honorable court.
11. From the report, there had been peaceful coexistence among the family and also among the siblings and the incident may have been as a result of uncontrolled anger. There is no history of criminality within the family.
12. The accused stated that his brother attacked him with a knife when he asked him to return his mobile phone. He snatched the knife and without knowing stabbed his brother who unfortunately died. He states that he did not intend to kill his brother but that he had acted out of furious anger. He regrets his action and prays for leniency from this court. Both parents of the victim who are also parents of the accused narrated that they were pained by the loss of their son caused by the accused who is also their son but have agreed to forgive the accused as they cannot afford to lose both of them one to death and the other to languish in prison hence they have resolved to forgive the accused with no reservations.
13. The parents further stated that upon sitting with elders from their community, they have decided that upon his release of accused, a cleansing ritual will be undertaken so as to welcome the accused into the community and home.



14. The area administrators and the village elders stated that the accused has not been involved in any criminal acts within the community. They have known the accused as a hardworking man within the community. They believe that this was an isolated incident which may have been driven by uncontrolled anger. They also confirmed that the family of accused and deceased have agreed on reconciliation and prayed for a lenient sentence.

Mitigation

15. The defence counsel Ms. Kusolo mitigated on his behalf. She submitted that the accused and deceased lived harmoniously before without conflicts and this unfortunate incident was not as a result of any animosity between the deceased and the accused but rather isolated and unforeseen occurrence.
16. She stated that the accused has been engaging in self development activities and he consistently sought for ways to improve himself. That both parents of the accused have forgiven the accused and confirmed that he has not been involved in criminal activities before.
17. She submitted that there were no aggravating circumstances premeditation and the accused is remorseful. She stated that the area administration has reiterated accused's fitness to be re-integrated to the society. She prayed that this court exercises leniency and grant a non-custodial sentence stating that his community and family are willing to support him.
18. The state counsel Ms. Omari submitted that pre-sentence report is favourable to the accused stating that the accused and the deceased were brothers. She confirmed that there were reconciliatory talks and she thus left the aspect of sentence to the discretion of the court.

Determination

19. Under Section 205 of the *Penal Code* a person convicted of Manslaughter is liable to imprisonment for life, however the court in Malindi Criminal Appeal No. 12 of 2021 between *Julius Kitsao Manyeso v Republic* declared life imprisonment unconstitutional.
20. From presentence report, the accused is a 1st offender and has saved the court's time by pleading guilty to a lesser charge and he is remorseful. I also take into consideration the fact that the accused has shown remorse and regrets committing the offence and also the circumstances leading to the death of the victim. I have also considered the fact that the accused and his family have reconciled and the family has forgiven him and are relating well.
21. I take note of the fact that the accused and deceased were siblings and the parents have forgiven the accused and undertake to do cleansing ceremony so as to enable the accused integrate back to the community and together with local administration they are ready to assist the accused integrate back to society. In view of the above, I am inclined to impose a non-custodial sentence and impose probation sentence for a period of 3 years.
22. Final Orders: -
1. Accused is hereby placed on Probation for a period of 3 years
 2. Right of appeal 14 days.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 30TH DAY OF APRIL, 2025.

RACHEL NGETICH
JUDGE



In the presence of:

Ms. Kosgey holding brief for Ms. Omari for State.

Ms. Kusolo for Accused.

Court Assistant – Elvis.

