



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kagendo (Criminal Case 31 of 2023)
[2025] KEHC 7466 (KLR) (30 May 2025) (Judgment)**

Neutral citation: [2025] KEHC 7466 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 31 OF 2023**

**DR KAVEDZA, J
MAY 30, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

VIOLET AMAGOVE KAGENDO ACCUSED

JUDGMENT

1. The accused person Violet Amagove Kagendo was charged for the offence of murder contrary to section 203 and 204 of the *Penal Code*, Cap 63 Laws of Kenya. On 4th October 2023, the information and all the ingredients of the offence were read and explained to the accused in Kiswahili her preferred language and she replied “sio Ukweli”. A plea of not guilty was entered and the matter fixed for hearing.
2. Following successful plea negotiation with the prosecution the accused pleaded to a lesser charge of manslaughter. The accused was charged with the offence of manslaughter contrary to section 202 as read with section 205 of the *Penal Code* Cap 63 Laws of Kenya. The particulars are that on 25th August 2023, at Nyayo Highrise area, in Langata sub-county Nairobi County unlawfully killed Amos Etole.
3. The brief facts of this case are as follows: The accused and her late husband were in a strained marital relationship, primarily due to the deceased’s alleged infidelity. On the material day, the accused returned home from work and found the deceased at home with their children, who were preparing dinner. The accused then received a phone call from a woman named Ruth. During the call, the deceased asked Ruth whether she had gone to Toi Market. This exchange appeared to provoke the accused, who insulted Ruth, shouting, “Wewe ni malaya, unaninyang’anya bwana.”
4. The deceased ended the call, and an altercation followed. He told the accused that he was tired of her and intended to leave the house. He began packing his belongings, but the accused tried to restrain him, stating that she would not allow him to go. This angered the deceased, who slapped the accused,



- causing her to fall onto a seat. In response, the accused took a knife that one of the children had been using to prepare vegetables and stabbed the deceased.
5. The deceased ran outside, calling for help. Members of the public responded, assaulted the accused, and she was later taken to Mbagathi Hospital for treatment before being booked at Lang'ata Police Station. Unfortunately, the deceased succumbed to his injuries. A knife was recovered at the scene, and the post-mortem report, which was produced as an exhibit, indicated the cause of death was hypovolemic shock resulting from a stab wound to the chest.
 6. The accused pleaded guilty to the offence and confirmed the facts as accurate. Upon satisfying myself that the plea was entered voluntarily and without coercion, I accepted it and convicted her accordingly.
 7. In mitigation, the accused pleaded for a lenient sentence. It is evident from the record that the marriage between the accused and the deceased was marked by conflict. It is also undisputed that the deceased was engaged in an extramarital affair.
 8. It is further undisputed that the deceased provoked the accused first, by engaging in a phone conversation with his girlfriend in the presence of his wife and children, and second, by physically assaulting the accused. That he initiated the physical confrontation is not in question.
 9. In response to this provocation, the accused stabbed the deceased once, an act that, while impulsive and driven by anger, resulted in his death. From these circumstances, I find that the accused exhibited characteristics consistent with battered woman syndrome. She ought to have sought help or allowed the deceased to leave, rather than reacting violently.
 10. While anger is not a defence, it may be considered a mitigating factor in sentencing. I find that, although her conduct cannot be condoned, her emotional state at the time of the offence was understandable given the provocation.
 11. I have considered the circumstances surrounding the incident that led to the deceased's death, as well as the mitigation presented by the accused and her counsel. The accused is a first-time offender and pleaded guilty to a reduced charge of manslaughter, thereby saving the court's time.
 12. In *Fredrick Ambani Naitiri vs Republic* [2014] eKLR, the High Court held that a sentence must reflect the moral blameworthiness of the offender and that the court should consider the full context before determining an appropriate sentence.
 13. The Judiciary Sentencing Policy Guidelines (page 15, paragraph 4.1) outline the objectives of sentencing as retribution, deterrence, rehabilitation, restorative justice, community protection, and denunciation. Applying these principles to the present case, I am satisfied that the accused merits a lenient sentence in light of her circumstances.
 14. Accordingly, taking into account her mitigation, the context of the offence, and the value of human life, I sentence the accused, Violet Amagove Kagendo, to five (5) years' imprisonment. The sentence shall run from the date of her arrest, 25th August 2023, pursuant to section 333(2) of the *Criminal Procedure Code*, Cap 75, Laws of Kenya.

Orders accordingly.

JUDGEMENT DATED AND DELIVERED THIS 30TH DAY OF MAY 2025

D. KAVEDZA

JUDGE

In the presence of:



Accused Present

Ragot Counsel for the Accused

Ms. Maina for the Prosecution

Tonny Court Assistant

