



REPUBLIC OF KENYA



**KENYA LAW**  
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**Prosecution v Kaguthi (Criminal Case E004 of 2025)  
[2025] KEHC 9031 (KLR) (26 June 2025) (Sentence)**

Neutral citation: [2025] KEHC 9031 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAHURURU  
CRIMINAL CASE E004 OF 2025  
LN MUTENDE, J  
JUNE 26, 2025**

**BETWEEN**

**PROSECUTION ..... RESPONDENT**

**AND**

**NANCY WAMBUI KAGUTHI ..... ACCUSED**

**SENTENCE**

1. Nancy Wambui Kaguthi, the Accused, was indicted for Murder of Hillary Kaguthi Gitahi (deceased). At the outset she denied the accusation, but, later initiated plea-bargain through her legal representative pursuant to Section 137C of the *Criminal Procedure Code*.
2. The plea agreement was executed by both the Prosecutor and the Accused person which resulted into the information being reduced to manslaughter contrary to Section 202 as read with Section 205 of the *Penal Code*.
3. Facts of the case were that the Accused and Deceased were married for 26 years and were blessed with 4 children. On the fateful night the Accused and Deceased were the only ones at their Kasarani Estate home in Nyahururu Town. At about midnight their immediate neighbour John Waigwa heard the Accused shouting, called out his name but he did not get out of the house.
4. At about 1.00am, Eston Wahome Ngatia was woken up by a phone call from the Accused who informed him that the Deceased had committed suicide. He requested him to rush to her house. Wahome together with his wife went to the house where the Accused led them to the bedroom. They found the Deceased who lay facing upward and non-responsive.
5. The Accused showed them an apron dress and manila threads which were on the wall that the deceased purportedly used to commit suicide. Wahome called the Area Chief who did not respond but in company of two (2) village elders they went to report the incident to Nyahururu Police Station. The



- police on visiting the scene noticed a cap and handkerchief in the sitting room which suggested some disturbance having occurred. Also found at the scene were two pieces of wood.
6. The body was removed and taken to Nyahururu County Referral Hospital Mortuary for preservation. Subsequently a postmortem was conducted after the body of the Deceased was identified by Christopher Mwangi Gitahi and Kelvin Kaguthi. It was established that the cause of death was severe head injury secondary to blunt force trauma to the head.
  7. A mental status examination done on the Accused established she was of sound mind hence fit to stand trial. It was however established that since 2016 the Accused and Deceased started having domestic differences. Despite intervention of neighbours there was very little success.
  8. To reach an informed decision on sentencing this court called for a pre-sentence report that captured views of the secondary victims, the Accused and the community at large. The report was filed by Ms. Beatrice Irungu, Probation Officer, Nyahururu. The Accused dropped off in form four at Elburgon High School and eloped with the deceased her High School teacher and moved to Nyeri where he changed his teaching career to a Foreman a skill that he depended on until his demise. Subsequently, they relocated to Nyahururu.
  9. Their marriage of 26 years was blessed with children who are adults with two (2) grandchildren. The relationship was characterized with a series of domestic violence that previously resulted into stunts of separation. The primary victim was blamed for being the aggressor, always starting fights with the offender even in the presence of children. The offender always reached out to church members, in-laws and neighbours to no avail.
  10. That the victim had become an alcoholic such that he would sell household items and livestock to secure alcohol. That on the fateful night the victim who had sold the remaining sheep returned home completely drunk and embarked upon assaulting the accused. That the incident occurred when she pulled some threads that had supported the victim hence getting injured, injuries that he succumbed to.
  11. Secondary victims being their children relive how the offender has suffered in the hands of their father. The first born has taken over parental responsibilities. The second born deferred his studies due to financial constraints while the last born has been affected to an extent he had to repeat form four (4). They plead for their mother to be granted a non-custodial sentence so as to support them noting that their father always threatened to commit suicide which really affected them.
  12. The primary victim's brother however was still agitated. He claimed that the offender has never reached out to them with a view of reconciling. That the community and neighbours vouched for her placement on a non-custodia sentence. It is the recommendation of the probation officer that placement of the Accused on a non-custodial sentence will grant her the opportunity to undergo counselling in order to address trauma that she went through. And, the children will also benefit.
  13. In mitigation, the Accused through her legal representative, learned counsel, Mr. Nderitu Komu expresses remorse. That she has medical challenges, hypertension and asthma. She pleaded for a non-custodial sentence.
  14. Section 205 of the *Penal Code* provides that;

Any person who commits the felony of manslaughter is liable to imprisonment for life.
  15. The objective of sentencing includes deterrence, retribution, incapacitation, rehabilitation, restoration and protection of the community. In considering a punishment to be imposed, the court would reflect



on how the offence or wrong doing is condemned by the public at large, hence the need to incarcerate the offender to prevent them from repeating such an offence or generally discouraging the public from considering committing such a crime.

16. It may not be enough to confine an individual in prison without considering the question of rehabilitation. It is important to address underlying causes of the minimal behavior so as to change the mindset of an offender prior to being reintegrated into the community. In doing so, the offender must be encouraged to undergo counselling and a supportive environment which is key when it comes to reintegration.
17. The law also requires that the sentence imposed be commensurate to the moral blame worthiness. In *Ambani v Republic* [1990] KLR it was observed that;

“Further, the law is that sentence imposed on an accused person must be commensurate to the moral blame worthiness of the offender and that it is thus not proper exercise of discretion in sentencing for the court to fail to look at the facts and circumstances of the case in their entirety before sentencing for any given sentence.”
18. This is a case where it is emphasized by the probation officer that the offender regrets the offence committed. The victim is stated to have failed to execute suicidal threats and purportedly tied a cloth – like around the neck, threads that the Accused pulled that resulted into a purported fall that ended the his life.
19. The argument of the Accused having been a victim of domestic violence is confirmed. However, the Accused is not candid as to what actually happened on the material night hence bringing into question the issue of remorse. There will be need for the Accused to rebuild family ties as the relatives of the deceased do not seem to have healed to date. In the process of strengthening the family ties it behooves the Accused to take responsibility of making amends with the secondary victims and the community at large. This hence calls for a hybrid sentence.
20. For reasons given, I do sentence the Accused to serve two (2) years imprisonment and upon release to be under probation supervision for a period of three (3) years.
21. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 26<sup>TH</sup> DAY OF JUNE, 2025.**

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**L.N. MUTENDE**  
**JUDGE**

