



**Republic v Twahir (Criminal Case 73 of 2023)
[2025] KEHC 11324 (KLR) (31 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 11324 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL CASE 73 OF 2023**

**DR KAVEDZA, J
JULY 31, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

SAID ALI TWAHIR ACCUSED

JUDGMENT

1. The accused, Said Ali Twahir, was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*, cap 63, laws of Kenya. The particulars are that on the 29th day of May 2022, at around 0900hrs at Lindi area in Kibra Sub-County within Nairobi County murdered Abdulrahim Ratib.
2. However, following successful plea negotiations with the state, the accused pleaded guilty to a lesser charge of manslaughter and signed a plea agreement on 18th March 2025. The accused was therefore charged with the offence of manslaughter contrary to section 205 of the *Penal Code* cap 63 Laws of Kenya.
3. The brief facts, as outlined in the plea agreement, are as follows. On 29 May 2022 at around 9:00 a.m., in the Lindi area of Kibra Sub-County, Nairobi County, the deceased, Abdulrahim Ratib (54 years), was fatally assaulted by the accused, Said Ali Twahir (25 years). The accused and the deceased were distant relatives and neighbours, residing on inherited family land. Their families had a long-standing land dispute that had resulted in frequent disagreements.
4. On the material day, the deceased was clearing a trench with a spade outside his house. The accused approached and asked why the deceased was throwing dirt onto their side of the plot. The deceased replied that he was simply cleaning, but the accused took offence, believing the response was rude. He snatched the spade and struck the deceased on the head, causing a cut. He then attacked the deceased



further using a metal bar, hitting him on the neck and arm. A physical struggle followed, and both fell to the ground.

5. A neighbour, Rose Atieno, witnessed the incident and alerted the accused's grandfather, Twahir Ali Saleh, who intervened to stop the accused from further assault. The deceased was bleeding heavily from the head.
6. Zuhra Abdulaziz, the deceased's stepmother, and another neighbour helped him back to his house. Moments later, they heard a loud bang and found a large stone outside the door, with the accused walking away alongside his grandfather.
7. The deceased was rushed to Makina Clinic for first aid and later referred to Kenyatta National Hospital, where he was pronounced dead on arrival. His body was taken to City Mortuary, identified by his brothers, and a post-mortem was conducted according to Islamic rites. The Government Pathologist concluded that the cause of death was head injury due to blunt force trauma.
8. Scene of crime personnel processed the area and recovered the spade. Upon learning of the death, the accused fled to the Western region. He was traced and arrested on 11th March 2023 at Umma Institute of Professional Studies in Mumias West, Kakamega County, and later transferred to Kilimani Police Station. A psychiatric assessment confirmed he was fit to stand trial.
9. Upon reading the facts to the accused and after confirming that the plea-bargaining process was voluntary, that the accused's constitutional rights had not been violated during the negotiation process, and further that he was not coerced, the court accepted the plea agreement and convicted the accused accordingly.
10. In mitigation, Ms. Kanyangi, counsel for the accused, submitted that the accused is a 27 year old first offender who pleaded guilty voluntarily and accepted responsibility. She stated that he is remorseful and deeply regrets his actions. The incident arose from a long-standing land dispute and verbal provocation.
11. On the day in question, the deceased allegedly insulted and physically assaulted the accused, which led to a spontaneous confrontation. The accused did not intend to cause death and was not armed. After realising the gravity of the situation, he sought medical treatment and later fled in fear. He has been in custody for three years and is actively engaged in rehabilitative programmes in prison.
12. Counsel asked the court to consider his youth, remorse, and the fact that his guilty plea spared the court's time and the family further emotional strain. She requested a non-custodial sentence with rehabilitation.
13. Ms. Timoi, for the prosecution, opposed this request. She submitted that the deceased left behind a widow and three young children. The facts show the accused initiated the assault. She maintained that the accused acted without provocation and showed little restraint. The prosecution submitted that a custodial sentence was appropriate in the circumstances.
14. Ms. Martina learned counsel for the victims supported the prosecution's position. She submitted that the deceased and the accused were not related but lived on neighbouring plots. She disputed the accused's remorse and cited allegations of threats from the accused's family, although these were not confirmed by the victim. She pointed out that the accused fled and later attempted to justify the offence as provoked. She highlighted community hostility toward the accused and requested a sentence of not less than ten years, noting that while the accused pleaded guilty, he should not receive the maximum sentence.



15. In reply, Ms. Kanyangi rejected the allegations of threats and argued that the accused should not be punished for actions he did not commit. She reiterated that he is remorseful, has served time while awaiting trial, and is capable of reform.
16. Rukia Ali, the widow of the deceased, gave a victim impact statement. She explained that she was left with three children, including a newborn, and that she had not received any apology or support from the accused's family. She asked the court to impose a custodial sentence, stating that the children are afraid of the accused returning to the community.
17. The probation report on record indicates that the offender is well known in the local community, which associates his conduct with his family's long-standing disruptive behaviour. Though he pleaded guilty and took full responsibility, his family has not shown remorse or made any effort to reconcile with the victim's family.
18. The report also notes that the offender was drug and alcohol dependent at the time of the offence, and fled for ten months to evade justice. The community expressed concern that releasing him on a non-custodial sentence would embolden his family and fail to deter future offences. However, the offender has shown a willingness to reform and his grandfather has offered to support his rehabilitation.
19. The report recommends a custodial sentence due to the seriousness of the offence and the strained relations between the families, while also urging the court to consider structured mediation to resolve the underlying land dispute for the victim's children's sake.
20. Having considered the plea agreement, the circumstances surrounding the offence, the probation report, and the impact on the victim's family and the community, it is clear that this was a grave and senseless act of violence. The accused, while showing some remorse through his plea, acted with extreme aggression, causing the death of a family member and neighbour with whom he had a long-standing land dispute. His actions were not only criminal but deeply traumatising to the victim's family, particularly his young children, who have been left destitute. The offender's flight from justice and his association with a violent group heighten the seriousness of the offence.
21. The penal section for the offence of manslaughter is contained in section 205 of the [Penal Code](#), which provides: -

Any person who commits the felony of manslaughter is liable to imprisonment for life.
22. The Court of Appeal in [Thomas Mwambu Wenyi v Republic](#) (2017) eKLR cited the decision of the Supreme Court of India in [Alistar Anthony Pereira v State of Maharesbtra](#) at paragraphs 70-71, where the court held as follows on sentencing:

“Sentencing is an important task in the matter of crime. One of the prime objectives of the criminal law is imposition of appropriate adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straight jacket formula for sentencing an accused person on proof of crime. the courts have evolved certain principles: twin objective of sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstance of each case and the court must keep in mind the gravity of the crime, motive for the crime nature of the offence and all other attendance circumstances. The principle of proportionality in sentencing a crime doer is well entrenched in criminal jurisprudence, As a matter of law, proportion between crime and punishment bears most relevant influence in determination of sentencing the offender. The court has to take into consideration all



aspects including Social interest and consciousness of the society for award of appropriate sentence”

23. I have considered the seriousness of the offence, the sentencing principles of proportionality, deterrence, and rehabilitation, and the views expressed by the victim’s family and community. The violent death of a father and neighbour has left lasting emotional and economic harm to his dependants.
24. The Court must mark the value of life and make it clear that such acts of violence will not be excused. The offender’s plea and willingness to reform are noted, but they do not outweigh the severity of the harm caused. A custodial sentence is necessary to reflect public interest in justice and to deter similar conduct.
25. In my view, imprisonment will also provide the offender with access to structured rehabilitation, helping address the factors that contributed to the offence.
26. In the circumstances, I would have imposed a sentence of thirty (30) years. However, the offender is entitled to a reduction for pleading guilty. I therefore sentence Said Ali Twahir to fifteen (15) years imprisonment. The sentence shall run from 11th March 2023, the date of his arrest pursuant to section 333(2) of the *Criminal Procedure Code*.

Orders accordingly.

JUDGEMENT DATED AND DELIVERED THIS 31ST DAY OF JULY 2025

D. KAVEDZA

JUDGE

In the presence of:-

Ms. Timoi for the Prosecution

Ms. Kanyangi for the Accused

Ms. Martina watching brief for the Victims

Ms. Karimi Court Assistant.

