



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Korir (Criminal Case E011 of 2021)
[2025] KEHC 11426 (KLR) (31 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 11426 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KABARNET
CRIMINAL CASE E011 OF 2021
RB NGETICH, J
JULY 31, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

DANIEL KIPROTICH KORIR ACCUSED

SENTENCE

1. The accused Everline Kabon Kiptisia was 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 on the 23rd day of February 2021, at Torokwonin Village in Baringo North Sub- County, within Baringo County, the accused murdered Solomon Kipkorir Cherogony.
2. By a judgment delivered on 27th September 2024, this Court found the accused guilty and convicted her of the offence of murder.
3. Upon conviction, the prosecution informed the Court that the accused was a first offender. The Court accordingly directed the filing of a pre-sentence report prior to mitigation.

Mitigation

4. When the matter came up on 13th February 2025 for mitigation, learned counsel Mr. Gemenet, appearing for the accused, submitted that the families of the accused and the deceased had reached a form of reconciliation. According to him, the accused's family had agreed to compensate the deceased's family with two cows and Kshs. 500,000. He stated that Kshs. 200,000 had already been paid, though a specific date for payment of the balance had not been agreed.
5. Counsel submitted further that efforts were ongoing to provide the two cows. He urged the Court to consider these steps toward reconciliation.



6. It was also submitted that the accused is an elderly woman, over 60 years of age, and that she has been unwell while in custody. Counsel urged the Court to consider her age, state of health, and demonstrated remorse. He prayed for a non-custodial sentence on the ground that she has reformed and deserves a second chance in life.
7. In response, the prosecution counsel, Ms. Bartilol, submitted that while defence counsel alleged partial compensation, the prosecution was not privy to that arrangement and no evidence of payment was captured in the pre-sentence report. She urged the Court to exercise discretion and impose a deterrent sentence, considering the manner in which the deceased met his death.
8. Following that submission, the Court directed the filing of a supplementary pre-sentence report to clarify the issue of compensation.
9. On 12th March 2025, Mr. Gemenet contested the contents of the supplementary report. He reiterated that Kshs. 200,000 had previously been paid, but the victim’s family had rejected it, demanding Kshs. 500,000. He indicated that an additional Kshs. 100,000 had been raised to cover for the two cows, and only a balance of Kshs. 300,000 remained, which they prayed be paid within three months.

Pre-sentence Reports

10. Three pre-sentence reports were filed — on 18th November 2024, 10th March 2025, and 17th June 2025.
11. From the final report dated 17th June 2025, the Court notes that the accused is the second-born daughter in her family, both parents deceased. Her siblings include Pauline, David Kirwa (a farmer), and two deceased siblings, Justus Keino and Dinah Koech.
12. The accused has a criminal record. Her family members — including her sister, cousin, children, co-wife, and brother-in-law — participated in the social inquiry. Several relatives supported the plea for a non-custodial sentence citing her age, health, remorse, and efforts at compensation and reconciliation.
13. Notably, her co-wife and eldest son opposed a non-custodial sentence. The co-wife recounted previous violence inflicted upon her by the accused, while the son attributed the accused’s violent behavior to alcohol use and poor anger control. The co-wife emphasized that a non-custodial sentence might encourage further violence.
14. Representatives of the accused’s family reported paying Kshs. 500,000 and making arrangements for the two cows and a sheep as part of traditional cleansing. A ceremony was scheduled for 17th June 2025.
15. The social inquiry confirmed the accused has no minor dependents, possesses vocational training, and previously engaged in casual work. However, she had a history of selling alcohol at her homestead, where the incident occurred.
16. The offence occurred after an altercation. The accused confronted the deceased about money, and a quarrel ensued. The deceased had a panga, while the accused retrieved a Maasai sword and fatally attacked him. She also used the deceased’s panga during the assault. She later claimed the act was committed in anger and self-defence.

Sentiments of Victim’s Family and Community

17. The victim’s widow, sister, mother, and uncle were interviewed during the social inquiry. The deceased, aged 40, was a carpenter and father of four minor children. The widow tearfully recounted the emotional and financial toll his death had on the family. She and other family members were opposed to a non-custodial sentence, citing the need for justice and healing.



18. The victim's sister and mother similarly opposed any leniency, asserting that only a custodial sentence could give them closure.
19. The uncle submitted that a non-custodial sentence would deny them justice and embolden the accused.
20. Although the family acknowledged the Kshs. 500,000 compensation and upcoming cleansing ceremony, they stated that the compensation was purely for reconciliation at the clan level due to intermarriage, not a basis for leniency. They even expressed concern for the accused's safety if released and returned to the community.
21. The local administrator confirmed that the accused was known in the community for her violent tendencies. She confirmed receipt of compensation but emphasized that the victim's family remained bitter and preferred a custodial sentence.
22. The probation officer concluded that despite the compensation, the views of the victim's family and the accused's violent history rendered her unsuitable for a non-custodial sentence.

Determination

23. Section 204 of the *Penal Code* provides that any person who is convicted of murder shall be sentenced to death. The court however has discretion to impose a lesser sentence depending on circumstances of each case.
24. I have considered the accused's mitigation, her age, ill-health, the partial reconciliation efforts through compensation, and the contents of the pre-sentence reports.
25. I also consider the gravity of the offence, the loss of a life, the method used, and the fact that the accused has previously served a custodial sentence for grievous harm. Further, the accused did not exhibit remorse immediately after the offence. Though reconciliation was attempted, it came post-conviction and did not lessen the impact of the loss.
26. I also note that the pre-sentence report is not favourable to the accused. The victim's family remains bitter and unequivocally opposed to a non-custodial sentence. There are valid community protection and deterrence concerns.
27. However, Court must balance justice, accountability, and the possibility of rehabilitation, particularly given the accused's advanced age and the reconciliation gestures made.
28. In view of the above and the totality of circumstances surrounding the offence, I am persuaded to impose a lenient custodial sentence.
29. Final Orders: -
 - a. The accused is sentenced to ten (10) years' imprisonment.
 - b. The period already served in custody to be computed pursuant to Section 333(2) of the *Criminal Procedure Code*.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 31ST DAY OF JULY 2025.

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RACHEL NGETICH

JUDGE



In the presence of:

CA Elvis.

Ms. Kosgei for State.

Mr. Gemenet for Accused.

Accused Present.

