



**Republic v Dagane (Criminal Case E010 of 2024)
[2025] KEHC 11120 (KLR) (29 July 2025) (Sentence)**

Neutral citation: [2025] KEHC 11120 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MANDERA
CRIMINAL CASE E010 OF 2024**

**JN ONYIEGO, J
JULY 29, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

ADAN ABDILLE DAGANE ACCUSED

SENTENCE

1. The accused herein is charged with the offence of murder contrary to section 203 as read out with section 204 of the *Penal Code*. Particulars are that on the 27th day of October, 2024 at Abanoli Village, Biyamathow Sub-Location, Habaswein Sub-County within Wajir County in the republic of Kenya, Murdered Mohamed Abdi Ali.
2. Having pleaded not guilty, the matter was set for hearing. However, before the hearing commenced, there was engagement and negotiation between the prosecution and the defence. With the guidance of the defence and prosecution counsel, a plea-bargaining agreement was arrived at and subsequently executed by both parties on 3rd day of July, 2025.
3. In the said agreement, the accused agreed to plead guilty to committing a lesser charge of manslaughter contrary to section 202 as read with section 205 of the penal code. He subsequently pleaded guilty on 8th July, 2025 and accordingly got convicted the same day. The court then ordered for a pre-sentence report.
4. According to the report, the accused is suitable for a custodial sentence. That the community is receptive. That the victim’s and accused’s family have engaged in some form of settlement and or compensation hence reconciled. In mitigation, accused pleaded for leniency citing grounds that; he is remorseful; has learnt from his mistakes; he regrets the offence; has reconciled with the victim’s family and there was no bad blood between them and that he has seven children who depend on him.



5. It is trite that sentencing is at the discretion of the trial court. See *Kipkoech Kogo - vs - R. Eldoret* Criminal Appeal No.253 of 2003 where the Court of Appeal stated thus: -

“ sentence is essentially an exercise of discretion by the trial court and for this court to interfere it must be shown that in passing the sentence, the sentencing court took into account an irrelevant factor or that a wrong principle was applied or that short of these, the sentence itself is so excessive and therefore an error of principle must be interfered (see also *Sayeka – vs- R.* (1989 KLR 306)”

6. Similar position was stated by the court of appeal in *Bernard Kimani Gacheru vs. Republic* [2002] eKLR where it was stated that:

“It is now settled law, following several authorities by this Court and by the High Court, that sentence is a matter that rests in the discretion of the trial court. Similarly, sentence must depend on the facts of each case. On appeal, the appellate court will not easily interfere with sentence unless, that sentence is manifestly excessive in the circumstances of the case, or that the trial court overlooked some material factor, or took into account some wrong material, or acted on a wrong principle. Even if, the Appellate Court feels that the sentence is heavy and that the Appellate Court might itself not have passed that sentence, these alone are not sufficient grounds for interfering with the discretion of the trial court on sentence unless, anyone of the matters already states is shown to exist.”

7. It is however worth noting that in exercise of its discretion, a court is duty bound to take into consideration certain guiding principles interalia; the aggravating nature of the offence committed; the mitigating factors; pre-sentence report; previous criminal record of the accused; and victim impact assessment report. See *Judiciary Sentencing Policy Guidelines* clause 4.5 of 2023.

8. This court is pretty aware of the objectives of sentencing which are also captured in the *Judiciary Sentencing Policy Guidelines* clause 1.3.1 of 2023 as; retribution, deterrence, rehabilitation, restorative justice, community protection, denunciation, reconciliation and reintegration.

9. I have considered circumstances under which the offence was committed. I have also considered mitigation on record. The attack on the deceased came up as a result of a quarrel with the deceased over non-payment for water for watering animals hence not intentional. The two families have reconciled. Accused is remorseful. He has saved court’s time by pleading guilty and he is a first offender. In the circumstances, I will find a sentence of 2 years imprisonment suitable. In imposing this sentence, I have already factored in the period he has been in remand custody.

ROA 14 Days

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 29TH DAY OF JULY, 2025

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J. N. ONYIEGO
JUDGE

