



**Republic v Ezekiel alias Shamir (Criminal Case E044 of 2020)
[2024] KEHC 973 (KLR) (31 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 973 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E044 OF 2020
HI ONG'UDI, J
JANUARY 31, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

CHEMURSOI K EZEKIEL ALIAS SHAMIR ACCUSED

RULING

1. Ezekiel K Chemursoi alias Shamir the accused was initially charged with the offence of Murder contrary to section 203 as read with section 204 of the Penal Code. The offence occurred on 9th November, 2020. Later on 23rd October, 2023 the parties entered into a plea bargain agreement whereby the charge was reduced to Manslaughter contrary to section 202 as read with section 205 of the Penal Code.
2. The accused admitted the new charge and the facts and was convicted. A pre-sentencing report was called for and filed on 19th January, 2023 by Mr. Salim A.G. Probation Officer Nakuru. The same is dated 13th November, 2023. The report shows that the accused and deceased were very close friends who enjoyed taking illicit brews prepared by the accused's wife. Both the accused and victim were drunk at the time of incident. Mr. Salim interviewed the families of both parties. The victim's family has embraced reconciliation given the friendship between the accused and the deceased. Some compensation has been agreed on.
3. In mitigation Mr. Murunga for the accused told the court that the accused regrets his actions and is remorseful. He has been in remand for 3½ years and has learnt a lot which has changed his life. He confirmed the issue of reconciliation and compensation between the two families. That the accused is a first offender and so prayed for a non-custodial sentence.
4. Mr. Kihara for the prosecution submitted his concurrence with the sentiments by the Probation officer, as he was in touch with the two families. Further that the accused's family was ready and willing to get a title deed for the one (1) acre land given to the deceased's family.



5. I have keenly considered the facts leading to the brutal killing of the deceased herein. Both the accused and the victim were acting under the influence of alcohol which does not necessarily justify what the accused did.
6. I have also taken note of the fact that the accused was first arraigned in court on 24th December, 2020. The charge was read to him on 6th January, 2021. Despite being given bond terms he was never released on bond. He has therefore been in remand prison for three (3) years plus one (1) month.
7. The report by the Probation Officer shows that the deceased left, behind a widow but makes no mention of the children. Since the two families are said to have agreed on some form of reconciliation and compensation the court is willing to give the accused the opportunity to fulfil his promises.
8. The accused is hereby placed on probation for three (3) years on the following conditions:
 - i. Formal reconciliation must be undertaken within the first six (6) months of the accused's release. This will be facilitated by the Probation Office Nakuru and the area Administration.
 - ii. Title to the one (1) acre of compensation land must be facilitated by the accused and a title deed issued to the widow within twelve (12) months of the accused's release.
 - iii. A report to be filed before this court by the Probation Officer Mr. Salim A.G within 12 months from today's date to confirm orders No. (i) & (ii).
 - iv. The report should also confirm whether the accused is supporting the deceased's children as promised.
 - v. In the event of non-compliance, the Probation Order shall be revoked and substituted with a prison term.
 - vi. Mention before this court on 3rd February, 2025 for further orders.

DELIVERED, DATED AND SIGNED THIS 31ST DAY OF JANUARY, 2024 IN OPEN COURT AT NAKURU.

H. I. ONG'UDI

JUDGE

