



**Republic v Mutai (Criminal Case E062 of 2022)  
[2024] KEHC 2955 (KLR) (20 March 2024) (Sentence)**

Neutral citation: [2024] KEHC 2955 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE E062 OF 2022  
HI ONG'UDI, J  
MARCH 20, 2024**

**BETWEEN**

**REPUBLIC ..... STATE**

**AND**

**MICHAEL KIPLANGAT MUTAI ..... ACCUSED**

**SENTENCE**

1. The accused Michael Kiplangat Mutai first appeared before this court on 28<sup>th</sup> November, 2022 when his plea on the charge of Murder was taken. He denied the charge.
2. After a plea-bargaining agreement was entered into between the prosecution and accused the charge was on 29<sup>th</sup> November, 2023 reduced to Manslaughter contrary to section 202 as read with section 205 of the *Penal Code*. The charge and facts were read out to the accused on the said date and he admitted the same. He was thereafter convicted.
3. In mitigation Mr. Matoke for the accused submitted that the accused was apologetic for what happened on 12<sup>th</sup> November 2022, and that he was disturbed by his brother's death. He prayed for a non-custodial sentence for purposes of family reconciliation. He added that the accused was a family person, his family needed him and he would not repeat the offence.
4. Prosecution counsel Mr. Konga submitted that the offence was a serious one as the accused took away someone's life. He urged the court to issue a custodial sentence.
5. The pre-sentencing report is dated 29<sup>th</sup> January, 2024 and was filed the same day. It shows that the incident occurred following a dispute over land between the accused and his brother who is the deceased. The accused is the fifth born among seven children and is not married. The victim was the third born and was also not married.



6. The community through the assistant chief confirmed that the incident herein was a domestic conflict involving two siblings. He stated that it was not clear who attacked who in the first instance due to different versions of what happened on the material day.
7. The victim's family members who are for the accused stated that there was an elaborate reconciliation tradition in the Kalenjin community. However, majority of the siblings were against the accused's release and the clan members stated that they could only engage in the matter if the nuclear family was unanimous on the decision to reconcile with the accused.
8. The probation officer stated that the accused had no previous criminal record. It is his view that the accused needed to be accorded a family conference where he would be able to reach out to his immediate family members for reconciliation.
9. From the pre-sentencing report filed it is clear that the family of both the accused and deceased are divided on the issue of reconciliation. Infact majority of his own siblings are against his return home for now. Its not lost to this court's mind that the root cause of the fight was Land. Reconciliation can never be forced on parties in particular where a life has been lost. This court would not wish to impose such an order.
10. I have considered that the charge against the accused was reduced to Manslaughter after a plea bargain agreement. The Court's time was saved in the circumstances.
11. After consideration of the facts herein, and the mitigation, I hereby sentence the accused to five (5) years imprisonment, less the period he spent in custody
12. Orders accordingly.

**DELIVERED, DATED AND SIGNED THIS 20<sup>TH</sup> DAY OF MARCH, 2024 IN OPEN COURT AT NAKURU.**

**H. I. ONG'UDI**

**JUDGE**

