



**Republic v Tangira (Criminal Case 38 of 2023)
[2024] KEHC 2782 (KLR) (Crim) (20 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2782 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CRIMINAL
CRIMINAL CASE 38 OF 2023
CM KARIUKI, J
MARCH 20, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

ANNE WANJIRU TANGIRA ACCUSED

RULING

1. The Accused person was charged with the offense of murder contrary to Section 203 as read with Section 204 of the *Penal Code* (Chapter 63 of the Laws of Kenya).
2. The particulars are that on the 7th day of July 2022 at Iriani village, Nyandarua West Sub County, within Nyandarua County murdered Peter Lukhumbali alias, Stephen Sande
3. She pleaded not guilty and the matter went into a plea bargain.
4. Subsequently, the Defence and Prosecution arrived at a plea bargain Agreement which was executed by all parties.
5. On 19/3/2024 the charge of murder was substituted with that of manslaughter which the accused pleaded guilty to and a plea of guilty was entered.
6. The facts were read to the effect that on 7/7/2022 at around 2130 hours the deceased came back home while drunk. He knocked on the door and the accused who is his wife opened it for him. He entered the house where he met the accused in bed after a short talk they proceeded to the kitchen which is separately structured. The accused served the deceased in the kitchen. While eating the deceased suddenly kicked the sufuria with a jiko the accused asked him why he was doing that but the deceased stood and slapped her calling her Mbwa (dog). The two wrestled and the accused was squeezed down into the ground she screamed for help but nobody came out for her rescue.



7. She struggled and managed to get herself off from him and while running out from the kitchen for her safety the deceased got hold of her clothes and pulled her back.
8. The accused reached out for a knife which was in a sufuria and stabbed the deceased once in the stomach. She was freed and ran out.
9. The injuries the deceased sustained led to his death as he was found in the house on 8/7/2022 at 8.00 am.
10. A postmortem was conducted on the body of the deceased by a doctor and the cause of the death was established to be massive loss of blood following a stab wound.
11. The accused was later arrested and charged with the offense.
12. The prosecution informed the court that the accused had no previous record and thus be treated as a first offender.
13. The Defence Advocate mitigated that the accused was trying to rescue herself from an aggressor who used a knife. The deceased started a fight without provocation despite the good reception of the accused (his wife) with food. She has a child whose parents saved her and has been in custody for over one and a half years.
14. She is also repentant and remorseful and regrets the act she did to the deceased.
15. They seek a non-custodial sentence while the Prosecutions sought a custodial sentence of at least three (3) years imprisonment.
16. The court has gone through the record and the facts of the case.
17. The accused stabbed the deceased to free herself from the deceased unprovoked and unjustified attacked
18. The purpose of a sentence is for among others retribution to punish the offender, deterrence to deter the commission of a further offense, rehabilitation to enable the offender to reform, restorative justice -to address needs arising from criminal conduct e.g. loss and damage, community protection-incapacitating the offender and to punish the offender.
19. The court has taken into account all mitigating factors in sentencing and awarded a proportionate sentence. In our instance case court considering the all circumstances of the case, I find the accused was not only provoked by the deceased by being attacked and abused by the deceased but also was trying to save her life and had no option but to all means to preserve her life.
20. The deceased could have harassed her or even killed her.
21. The statement tendered by the prosecution almost exonerated the accused from any criminal responsibility in the circumstances. The court allows self-defense even to the extent of justifying killing.
22. Thus, the court finds that the period the accused has been in custody is enough.
23. Thus, the court makes the order that;
 - i. The accused sentence is for the period she has been in custody.
 - ii. She will thus be released forthwith unless otherwise lawfully held.

DATED, SIGNED, AND DELIVERED AT NYANDARUA THIS 20TH DAY OF MARCH 2024.



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C KARIUKI
JUDGE

