



REPUBLIC OF KENYA



Republic v Siso (Criminal Case 28 of 2019) [2024] KEHC 4235 (KLR) (24 April 2024) (Ruling)

Neutral citation: [2024] KEHC 4235 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MURANG'A
CRIMINAL CASE 28 OF 2019
CW GITHUA, J
APRIL 24, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSEPH OMONDI SISO ACCUSED

RULING

1. The accused, Joseph Omondi Siso was charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) but he was convicted on his own Plea of guilty with the offence of manslaughter contrary to Section 202 as read with Section 205 of the [Penal Code](#) under a plea bargain agreement which though dated 22nd November 2023 was only executed on behalf of the state on 23rd January 2024 and presented in court on 11th March 2024.
2. The particulars supporting the charge were that on 30th October 2019 at Kadudu village, Kambirwa Sub-location within Muranga County, the accused unlawfully caused the death of Philis Njoki Mwangi.
3. The brief facts of the case are that on 26th October 2019, the accused went to the deceased's home at around 7 p.m and sent one Hellen Wairimu to call the deceased who was her sister.
Since the deceased was engaged in burial preparations for her late nephew, she joined the accused at around 11 p.m. and together they proceeded to the accused's rental home. Since the deceased did not return home that night, on the following day at around 11 a.m, her son together with Hellen Wairimu proceeded to the accused's home to look for her.
On arrival, they found the deceased half naked groaning in pain and there was blood oozing from her nose. They also noted a liquid on the floor which smelt like poison. The accused was not in the house.
4. Hellen raised an alarm and people rushed to the house and took the deceased to Murang'a Level 5 Hospital where she was admitted for treatment. The matter was on the same day reported to the police.



Police proceeded to the scene and took samples which were escorted to the Government Chemist for analysis.

5. The facts also disclose that the deceased succumbed to her injuries on 30th October 2019. An autopsy done on her body on 1st November 2019 did not ascertain the cause of death since toxicology results were by that time unknown. The pathologist who conducted the autopsy however noted in the post mortem report dated 1st November 2019 that the deceased's neck was fractured.

The toxicology results were eventually released in a report from the Government Analyst dated 26th August 2020 which confirmed that the deceased had digested a combination of drugs including a pesticide which were detected in her stomach.

6. Upon being asked to indicate whether or not the facts read out to the court by the prosecution were true, the accused expressly admitted them to be true and in addition admitted that he had in fact given the deceased poison.
7. Ms. Weyimi, learned counsel who held brief for accused's counsel on record Ms. Kinyua in her plea in mitigation on behalf of the accused submitted that the accused was a first offender and he was remorseful for what he had done. She prayed for a non-custodial sentence and urged me to take into account that the accused had been in custody for over four years and that the victim's family had forgiven him.
8. After hearing the accused's plea in mitigation, I called for filing of a pre-sentence report which was filed on 5th April 2024.

A reading of the report reveals that the accused and the deceased were involved in a rocky intimate relationship and that on the night in question, the accused poisoned the victim after the two failed to iron out their differences and he was afraid that he would lose her to another man. The report also confirms that the victim's family though pained by the deceased's death had forgiven the accused out of realization that his incarceration would not bring the deceased back to life.

9. I have carefully considered the facts of this case and the circumstances in which the offence was committed. I have also considered the accused's plea in mitigation including his age stated to be 30 years in the pre-sentence report and the fact that he is a first offender. I have also taken into account the objectives of sentencing as set out in the [Judiciary's Sentencing Policy Guidelines](#) which includes retribution, rehabilitation, restorative justice, community protection and denunciation.
10. That said, I must point out at this juncture that life is sacrosanct and no person has a right to intentionally take away the life of another unless authorised by the [Constitution](#) and the law – See: Article 26 (3) of the [Constitution](#) of Kenya 2010. It is evident that in this case, the accused intended to kill the deceased which explains why he fractured her neck and knowingly gave her poison bringing her life to a painful end. The explanation the accused gave for this horrid action which is that he felt insecure and was afraid of losing her to another man depicts him as a very egotistical man who lacked respect for human life. And as a result of his grossly selfish and unlawful action, an innocent life was lost which will never be replaced.
11. It is important to note that the offence of manslaughter is a grave offence which attracts a maximum sentence of life imprisonment. Although I have taken due consideration of the accused's plea in mitigation including the fact that he was a first offender, given the facts of this case, I find that a non-custodial sentence as proposed in his plea in mitigation would not be appropriate for the accused in this case.



12. In my view, a custodial sentence is more suitable to teach the accused and other like minded persons that there are lawful means of settling all conflicts including those that pertain to personal relationships and that the law abhors persons who do not value human life. Taking into account all relevant factors, I sentence the accused to serve eight years imprisonment. The sentence will take effect from 12th November 2019 when the accused was first arraigned before this court.

It is so ordered

C. W. GITHUA

JUDGE

DATED, SIGNED AND DELIVERED AT MURANGA THIS 24TH DAY OF APRIL 2024.

In the presence of:

The Accused

Ms. Muriu for the State

Ms. Kinyua for the Accused

Mr. Wario Court Assistant

