



Republic v Korir (Criminal Case 12 of 2018) [2022] KEHC 530 (KLR) (20 May 2022) (Ruling)

Neutral citation: [2022] KEHC 530 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 12 OF 2018
AN ONGERI, J
MAY 20, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

DENNIS KIPROTICH KORIR ACCUSED

RULING

1. The accused Person in this case, Dennis Kiprotich Korir (herein after referred to as the accused Person) was charged with Murder Contrary to section 203 as read with section 204 of the [Penal Code](#).
2. The particulars of the charge are that on 22/6/2018 at Cheplanget Location in Bureti Sub-County within Kericho County, the accused Person Murdered Jane Chepkirui Ruto.
3. The Prosecution called a total of four witnesses including the Doctor whose evidence in summary was that the body of the deceased Jane Chepkirui Ruto was found hanging in her Kitchen on 22/6/2018.
4. PW.1 Dorcas Chepkorir discovered the body and she raised an alarm and PW.2 went to the Kitchen and saw the body. The witnesses said the accused person had a bad relationship with the deceased who was his mother.
5. The witnesses also said the accused person did not go to the scene where the body was recovered when they screamed but that he stayed at his house which was near that of the deceased.
6. The witnesses also said the accused person had chased away the deceased to her home where she stayed for 3 years and upon her return, she was found dead in her Kitchen barely two weeks later.
7. PW.3, Zakayo Kiptanui Ruto who is a brother to the deceased's husband said on the material day, he had taken his cows to the river where he stayed until 2 p.m. when he heard screams from the direction of his home.



8. When PW.3 went back home, he saw the body of the deceased hanging from a rope in her Kitchen with a cut wound on the leg and blood oozing from the leg. PW.3 said the Accused Person who is a son of the deceased did not come to the scene where many people had gathered.
9. PW.3 said the accused person had washed his clothes which were blood stained. He said Police arrested the accused person but they did not take his clothes which had been washed.
10. PW.4 – Dr. Kakili Richard testified on behalf of Dr. Bett who did a Post Mortem on the body of the deceased on 26/6/2018 at Kapkatet Hospital Mortuary.
11. Dr. Kakili said he was familiar with the handwriting of Dr. Bett having worked with him for 2 ½ years before Dr. Bett left for further studies.
12. Accordingly to Post Mortem Report, the Doctor who did the Post Mortem formed the opinion the deceased died of asphyxiation and Cerebral Hypoxia Secondary to strangulation.
13. The Doctor also noted in the Post Mortem Report that there were no defensive marks noted.
14. Upon considering the evidence adduced by the Prosecution, I find that the Prosecution has not established a prima facie case to warrant the Accused Person to be placed on his defence for reasons that the evidence on record shows that the deceased died of strangulation and there is no evidence that the Accused Person caused the death of the deceased.
15. The high court, in the case of *Republic v Anthony Wambua Willy* (2021) eKLR stated as follows:

“The prosecution must prove all ingredients of the offence of murder in order to sustain a conviction thereof. As per the ingredients provided for under section 203 as read with section 204 of the *Penal Code*, the prosecution must prove beyond reasonable doubt that there was death of a human being and that it was unlawfully caused with malice aforethought either directly or indirectly by the accused.”
16. Further, in *Republic v Silas Magongo Onzere Alias Fredrick Namema* [2017] eKLR the court stated as follows:

“Pursuant to section 203 the prosecution has a duty to prove that the deceased died as a result of the unlawful omission or commission of the accused. Secondly, that in killing the deceased the accused did so actuated by either express or implied malice aforethought. Thirdly, it is incumbent upon the prosecution to place the accused at the scene of the murder.”
17. Although there is evidence that there was a bad relationship between the Accused Person and the deceased who was his mother, there is no evidence that it was the Accused Person who caused the death of the deceased.
18. The evidence on record is that the deceased committed suicide by hanging herself with a rope. The Doctor noted in the Post Mortem Report that there were no defensive marks noted.
19. I accordingly find that the Accused Person has no case to answer and I acquit him under section 210 of the CPC.
20. The Accused Person to be released from Custody forthwith unless lawfully held for any other reason.

DELIVERED, DATED AND SIGNED AT KERICHO THIS 20TH DAY OF MAY, 2022

A. N. ONGERI



JUDGE

