



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.5 OF 2016

REPUBLIC.....PROSECUTOR

V E R S U S

RICHARD KIMUTAI RONO.....ACCUSED

JUDGMENT

1. The Accused Person was initially charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code but the charge was reduced to one of Manslaughter Contrary to Section 202as read with Section 205 of the Penal Code after the Accused Person signed a successful plea bargain agreement dated 5/10/2020.

2. The particulars of the charge of Manslaughter are that on 27/4/2015, the Accused Person unlawfully killed **ROSEMARY CHEPKEMOI CHUMO**.

3. The facts of the case were as follows:-

The Accused and the Deceased were relatives and neighbours. They have been having a land dispute. On the 27th April, 2015 at around 6.16 pm, the Deceased Rosemary Chepkemoi Chumo was with her daughter Salome Chepkurui Chumo weeding maize plants in their garden adjacent to their home. The Accused came to where the Deceased and her daughter were and told the Deceased to stop working on the Land and leave as the Land did not belong to her. The Deceased and her daughter ignored the Accused and went on with their work. The Accused became agitated, took a piece of stick and tried to hit the Deceased on the head. The Deceased who was tilling with a Jembe tried to block the Accused from hitting her head then the Accused grabbed the Jembe from the Deceased and used it to hit her forcefully on the legs and forehead. She fell down unconscious. The force used by the Accused to hit the deceased using the Jembe was so much that the Jembe handle broke into two. He went further and took a panga that was on the ground which he used to cut her on the left elbow. The Deceased's daughter raised an alarm while the Accused fled the scene.

Neighbours rushed to the scene and improvised a stretcher with which they used to carry the Deceased who was now bleeding profusely to take her to Hospital.

The Deceased was taken to Kipsitet Baptist Hospital and was referred to Kericho District Hospital where she died on 29th April, 2015 while undergoing treatment. The matter was reported to Kipsitet Police Post where Officers arrived at the scene and carried out investigations.

A postmortem was conducted by Dr. Edwin Kosgei on 2nd may, 2015 who formed the opinion that the cause of death was epidural haematoma.

The Accused who went into hiding was later arrested on 19/1/2016 after over 9 months since the commission of the offence.

The suspect was then charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code which has now been reduced to the offence of manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code.

4. The Learned Counsel for the Accused Person told the Court in Mitigation that the Accused Person is remorseful and further that the family of the deceased and the Accused Person have now reconciled and are living harmoniously after a cleansing ceremony was conducted.

5. The Probation Officer filed a Presence Report in which he gave the social circumstances stated that the Accused Person is remorseful and admits responsibility for the offence and is suitable for a non-custodial sentence.

6. I have considered the circumstances of the offence and Mitigation as given on account of the Accused Person by his Advocate.

7. I have also considered the Probation Officer's Report. The offence of Manslaughter is a serious one and it has a maximum sentence of life imprisonment.

8. Taking into account the circumstances of this case, I sentence the Accused person to five (5) years imprisonment.

9. The Accused Person was in custody from 21/1/2016 until 25/7/2017 when he was released on bond. The period he was in custody to be deducted from the computation of the jail term.

Delivered, signed and dated at Kericho this 22nd day of January, 2021.

A. N. ONGERI

JUDGE