



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KERICHO**

**CRIMINAL CASE NO.16 OF 2019**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOHNSTONE KIBET CHEPKWONY.....ACCUSED**

**RULING ON SENTENCE**

1. The Accused Person in this case was initially charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code.
2. The charge was reduced to one of Manslaughter Contrary to Section 202 as read with Section 205 of the Penal Code following a successful plea bargain agreement signed by the Accused Person on 7/7/2021.
3. The facts of the case were as given by the Prosecution were as follows:-

**On the 1<sup>st</sup> day of May, 2019, the Accused Person went to the home of Yebei a changaa brewer and drank changaa till around 3.30 pm.**

**The Accused then went back home and found his wife (the deceased) outside their house but also drunk.**

**They had some domestic problems which the Accused Person asked the Deceased to discuss and sort out their differences.**

**The deceased refused to discuss their family matters at that time and the Accused Person held her hand in a bid to pull her by force to go and discuss their issues.**

**The Deceased pulled back resisting from being dragged by the Accused. As they were wrestling, both the deceased and the accused fell down but the deceased fell on a heap of stones on her back and cried for help.**

**The Accused was still holding the deceased's hand while on the ground telling her that he is beating her today.**

**The commotion attracted their son called Eric Kiprono Bett who dashed to the scene and found the accused and the deceased both on the ground.**

**The Accused got up and left the deceased and went away leaving the deceased writing in pain.**

**Erick asked the deceased what happened and the deceased hold him that she fell down on the rocks when the Accused was forcing her to leave from where she was. She injured her back and head.**

**Erick shouted for help and his other brother and step mother went to where the deceased was lying and crying in pain.**

**They called for a boda boda and helped to take the deceased to hospital at Litein Mission Hospital where she was examined and the doctor referred her to Tenwek Hospital.**

**The deceased was then taken to Tenwek Hospital where she was treated and referred again to Moi Teaching and Referral Hospital in Eldoret where she died while undergoing treatment on 4<sup>th</sup> may, 2019.**

**The deceased's son went and reported the death of his mother at Naibei Police Station in Eldoret and on 6<sup>th</sup> of May, 2019, the Accused went to Eldoret at the mortuary to go and witness postmortem but was arrested by police before he could reach Moi Teaching and Referred Hospital and taken to Litein Police Station.**

**Post Mortem was conducted by Dr. Macharia at Moi Teaching and Referral Hospital and formed the opinion that the cause of death was cervical spinal injury due to blunt force trauma.**

**The Accused 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. I have considered the circumstances of this case and the mitigation by the Accused Person's Counsel. I find that the case is appropriate for a non-custodial sentence.

5. The Accused Person is placed on Probation for a period of 3 years on condition that he complies with the Probation Officer's requirements.

6. The County Probation Officer to organize for Counseling Services for the Accused Person.

**DELIVERED, DATED AND SIGNED AT KERICHO THIS 26<sup>TH</sup> DAY OF NOVEMBER, 2021**

**A. N. ONGERI**

**JUDGE**