

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAJIADO

CRIMINAL CASE NO. 1 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

STANLEY NDUATI ROSE.....ACCUSED

RULING

Stanley Nduati Rose, the accused, is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on the 4th January 2018 at Edgewood Apartments in Nkoroi Area, within Ong'ata Rongai Township in Kajiado County, murdered Salome Mukuhe Kanini. The accused pleaded not guilty to this charge.

The prosecution called eleven (11) witnesses to testify in support of their case. I took over this matter when there were only two witnesses remaining for the prosecution. I directed that this matter proceeds from where the previous judge had left off. I took evidence of the remaining two witnesses, the scenes of crime officer, No. 49738 George Odhiambo (PW10) and No. 237669 IP Cornelius Kimutai Rotich (PW11) the investigating officer.

I have had the chance to read and understand the evidence of the other witnesses who testified before Justice Nyakundi and Justice Mwita who handled this case before I took over the same. I have taken into account the evidence of Jane Njeri Kanini (PW1) the mother of the deceased; James Kanini Muturi (PW2) the father of the deceased; John Njenga Kanini (PW3) brother of the deceased; Patrick Ngunjiri (PW4) and Geoffrey Chege Ngaruka (PW5). All these witnesses testified on what happened on 4th January 2018. From their evidence, especially that of the parents of the deceased, PW1 and PW2 and her brother PW3, the accused and the deceased had relationship disputes. The deceased had moved back to her parents and was going to pick clothes from the home she had shared with the accused. Fearing for her safety, the parents told PW2 to accompany the deceased to pick clothes. PW2 was accompanied by PW4 Patrick.

Evidence shows that on arrival the accused pulled the deceased inside the house and locked the day making it impossible for PW3 and PW4 to prevent an attack on the deceased. PW3 called his parents who came together with PW5. All these five witnesses were present when the accused poured an inflammable liquid on the deceased, struck a match stick and set her ablaze. Evidence shows that the explosion from the substance which they suspected to be a petroleum product made them move back from the window and door of the house.

Out that incident the deceased received burns on her body which led to her death. According to the evidence of Dr Francis Maina Ndiangui (PW7) the deceased died as a result of complications of burn wounds covering 98% of her body surface due to exposure to open flames.

I have considered this evidence, I am satisfied that the prosecution has made out a case against the accused person. Consequently, I make a finding that the accused has a case to answer. I will proceed to place him on his defence in accordance with Section 306 (2) of the Criminal Procedure Code. The requirements of Section 306 (2) of the Criminal Procedure Code have been explained to the accused. Orders shall issue accordingly.

Delivered, dated and signed this 22nd November 2021.

S. N. MUTUKU

JUDGE