



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.14 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

WELDON KIPNGETICH CHEPKWONY.....ACCUSED

RULING ON SENTENCE

1. The Accused Person **WELDON KIPNGETICH CHEPKWONY** was 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 205 of the Penal Code following a successful plea bargain agreement signed by the Accused Person on 20/1/2021.
3. The particulars of the offence were that on 2/8/2020 at Chepkoiyo Village, Poywek Location in Ainamoi Division of KERICHO EAST Sub-County, KERICHO County, the Accused Person unlawfully killed **KENNEDY KIPKOECH CHEPKWONY**.
4. The facts of the case as given by the Prosecution were as follows:-

On the 2nd day of August, 2020, the deceased person arrived at the home of the Accused Person who was his brother holding a Jembe.

The Accused Person, who had just arrived home from harvesting vegetables to be taken to the market, was in his house. He could hear the deceased complaining and telling his wife and neighbor who were outside within the compound that the Accused bought iron sheets and used them to construct a house using proceeds of sale of his (deceased's) land.

The deceased who was angry, went to where the Accused had constructed a house using iron sheet within his compound and started digging the walls in a bid to remove the iron sheets.

The Accused on seeing that the deceased was removing iron sheets from the house that he constructed, went there and a bitter exchange of words between him and the deceased ensued.

The Accused tried to call the Area Chief to inform him that the deceased was creating disturbance but he could not be reached.

The deceased got angry swung the Jembe he was using and threw it towards the Accused Person but he managed to run to his house and shut the door causing the Jembe to hit the door from outside.

The Accused Person then took a panga which was in his house and opened the door then used it to assault the deceased striking him on his head.

The deceased fell down and blood was oozing from the injured head.

The Accused Person's wife and neighbor started screaming on seeing that the deceased was on the ground injured.

Neighbors arrived at the scene and rushed the deceased to Kericho County Referral Hospital in very critical condition and was pronounced dead on arrival.

The body was taken to same hospital mortuary where a postmortem was conducted by Dr. Harry Magun who formed the opinion that the cause of death was hypovolemic shock (massive bleeding) secondary to sharp object injury on the head.

Meanwhile the suspect who had run away to unknown place surrendered himself to the Area Assistant Chief who handed him over to police at Ainamoi Police Station.

After the investigations were complete, the Accused was 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.

5. The Learned Counsel for the Accused Person in Mitigation told the Court that the Accused Person was remorseful for the offence he committed.
6. The Accused Person further stated through his Counsel that he was provoked by the deceased and further that he would have been the deceased had he not taken steps to preserve his life. He asked for leniency.
7. The Probation Officer filed a Social Inquiry Report on 8/10/2021 giving the social background of the offender.
8. The deceased and the Accused Person were siblings and the incident occurred when the deceased went to the Accused Person's home and started demolishing the Accused Person's house.
9. The Court has taken into account the mitigating circumstances in this case and also the fact that the Accused Person is a first offender.
10. The Accused Person pleaded guilty to the charge of Manslaughter and saved the Court's time for trial.
11. The offence of Manslaughter carries a penalty of life imprisonment.
12. Taking into account the circumstances of this case, I sentence the Accused Person to five (5) years imprisonment. The period of 1 year the Accused Person has been in custody to be considered in the computation.
13. Right of Appeal against sentence - 14 days Explained to the Accused Person.

Delivered, dated and signed at Kericho this 20th day of December, 2021

A. N. ONGERI

JUDGE