



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KERICHO

CRIMINAL CASE NO.22 OF 2019

REPUBLIC.....PROSECUTOR

- V E R S U S -

VICTOR KIBET SOI alias ALI.....ACCUSED

J U D G M E N T

1. The Accused Person was initially charged with murder Contrary to Section 203 as read with Section 204 Penal Code and the charge was reduced to manslaughter Contrary to Section 202 as read with Section 205 Penal Code following a successful plea bargain agreement.
2. The Accused Person killed the deceased whom he was cohabiting with after she came home drunk.
3. The facts as presented by the Prosecution were as follows:-

“THAT on the evening of 2nd June, 2019, Edith Chebet, Ivine Cherotich and Kelvin Kipchumba were in the house at Asenwet Village, Kipsitet Sub-location while their mother, Gladys Chepkirui (Deceased) was away. Kelvin Kipchumba went to collect Milk from his Grandfather and when he came back, he found Victor Kibet Soi (the Accused) who cohabits with his mother having

arrived at the house. The Accused gave Kelvin Kipchumba fifty shillings to go and buy bread at the nearby shop. Kelvin Kipchumba went to the shop and bought the bread thereafter he came back. They ate the bread with Edith Chebet and Ivine Cherotich. After that, Kelvin Kipchumba went to the house of Jonathan Kipkirui where he usually sleeps. Edith Chebet was awoken by her mother (deceased) during the night when she came home knocking the door while drunk. Ivine Cherotich opened the door for her and when she went inside, she was grabbed by the Accused who was angered by her drunkenness and coming home late. He then threw her on the floor. She rose up and ran out of the house but the Accused chased her, caught up with her and started beating her using a stick. Edith Chebet and Ivine Cherotich ran to the neighbour's house to report. They came back and found the Accused still beating the Deceased. Edith Chebet noticed that her mother (deceased) was bleeding from the head. The Accused told Edith Chebet and Ivine Cherotich to help him carry the mother (Deceased) to the house and laid her on the mattress. The mother (deceased) was crying and vomiting blood due to the injuries inflicted on her.

In the morning of 3rd June, 2019 at around 0545 hours, Kelvin Kipchumba knocked the door and Edith Chebet went to open for him, Kelvin Kipchumba tried to wake up his mother (deceased) but she could not respond. Edith Chebet told Kelvin Kipchumba who is her brother that the Accused had beaten up their mother the previous night and sustained serious injuries.

Kelvin Kipchumba then went and informed their neighbours and when they arrived, they found motionless body of the deceased lying on a mattress and they started wailing and yelling. More people went to the scene while others started crying loudly.

One of the neighbours at the scene called the Area Chief and informed him of what had happened and requested him to inform the police.

Within a short while, the Area Chief arrived in company of police officers from Kipsitet Police Post.

The Police Officers who noted deep cut on the head and multiple bruises on the stomach and lower abdomen on the body of the deceased removed the body and took to Siloam Hospital Mortuary.

Post Mortem was conducted in the same hospital by Dr. W. Rotich who formed the opinion that the cause of death was severe head injury due to trauma to the head by a blunt object.

Meanwhile, the Accused Person who was at large surrendered himself at Kipsitet Police Post on 4th June, 2019 and later transferred to Kericho Police Station.

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. The Court has taken into account the mitigation by the Accused Person responding the fact that the Accused Person is remorseful for the offence he committed.
5. The Pre-sentence Report filed by the Probation Officer confirms that the two families have started the traditional reconciliation process involving the first cow **"Iringotit"** being given to the family of the deceased.
6. The penalty for the offence of manslaughter is life imprisonment. I take judicial notice that in Kenya life imprisonment has not been sufficiently and adequately defined like in other jurisdictions where courts take into account the ordinary span of life of a human being.
7. Taking into account the circumstance of this case, I sentence the Accused Person to five (5) years imprisonment.
8. The sentence to start running from this date.

Right of Appeal against sentence 14 days Explained to the Accused Person.

Delivered, signed and dated at Kericho this 23rd day of October 2020.

A. N. ONGERI

JUDGE