

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 39 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

CHRISTINE LUGATSIVA KABURU.....ACCUSED

RULING

Christine Lugatsiva Kaburu, hereinafter “the accused”, is facing two counts of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the two offences are that on 21st January 2013 at Kangemi Area, Dagoretti District within Nairobi County she murdered Britney Bulinda and Anointed Amalemba. The accused pleaded not guilty to the two charges. She is represented by Mrs. Nyamongo, advocate.

The prosecution has closed its case against the accused. Nine (9) witnesses have testified in support of the case. I have read the evidence adduced. It shows that on 21st January 2013, the accused who lived with her husband Paul Bulinda in Nairobi, called her mother-in-law Inviolata Mutola (PW3) and told her to wait for two coffins from Nairobi. PW3 was at the time of that call at Sigalagala, Kakamega. After about twenty (20) minutes, Paul Bulinda, husband to the accused, called his mother PW3 and informed her that the accused had killed their two children.

On the same day, around 4.30pm Daniel Kakai (PW2), the Caretaker at the plot where the accused and her family lived, received information from his wife that the accused had threatened to kill her two children and commit suicide. PW2 rushed to the scene in company of the wife of the Landlord. They found the accused’s house latched from inside. They broke open the door and found that the two children had been stabbed. Anointed the boy had a stab wound on the stomach while Britney the girl had stab wounds on the stomach and the chest. The accused had stabbed herself on the stomach with the knife still sticking out of her stomach.

The matter was reported to police who visited the scene and took the accused and Britney who was still alive to Kikuyu Mission Hospital. The body of Anointed Amalemba was removed and taken to the City Mortuary. The accused was treated and on her recovery she was charged with the two offences.

The deaths of the two children have been confirmed by the pathologist to have been caused by exsanguination due to penetrating stab wounds.

The evidence is strong and uncontroverted. It establishes a strong case against the accused person and leads me to the conclusion that the prosecution has made out a case against the accused person to warrant her being placed on her defence. Consequently, I find that the accused person has a case to answer and hereby place her on her defence. The accused has been informed of her right to defend herself and to inform this court of the manner she wishes to do so and whether she will be calling witnesses. Section 306 (2) of the Criminal Procedure Code has been complied with and orders shall issue accordingly.

Dated, signed and delivered this 26th day of January 2017.

S. N. Mutuku

Judge