



**REPUBLIC OF KENYA.**

**IN THE HIGH COURT OF KENYA AT KITALE.**

**CRIMINAL CASE NO. 7 OF 2014.**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**W L.....ACCUSED.**

**J U D G M E N T.**

1. The accused, **W L**, is charged with murder, contrary to section 203 read with section 204 of the penal code, in that on the 14th January, 2014, in Turkana County, murdered RA I.
2. The case for the prosecution was that on the material date, **M E (PW2)**, daughter to the accused and the deceased was at their village when she was attracted by noise and shouts. She enquired and found her parents fighting and in the process her mother was hit and injured with a stick by her father. She (mother) fell down on the ground.
3. The accused's mother, **S K (PW1)**, proceeded to the scene and found the deceased lying down on the ground having sustained fatal injuries. This was confirmed by a neighbour, **Catherine Ekidor Etole (PW3)**.

A police reservist, **Sylvester Enoit (PW4)**, reported the matter to the police and after necessary investigations by **P.C. Moses Nakale (PW5)**, the accused was charged with the present offence.

4. In his defence, the accused denied the charge of murder but admitted that he assaulted the deceased without any intention of killing her.

Indeed, in this court's opinion, the fact of the deceased's being assaulted by the accused was not disputed. However, the fact that the accused committed the act with the necessary malice aforethought to kill the deceased was not proved and was indeed disproved by the undisputed fact that the two were fighting when the deceased met her unfortunate death.

5. In essence, the prosecution has proved a charge of manslaughter against the accused who readily admits as much. Consequently, the accused is found guilty of manslaughter contrary to section 202 (1) PC and is convicted accordingly.

**[Delivered and signed this 22nd day of April, 2015.]**

**J.R. KARANJA.**

**JUDGE.**