

REPUBLIC OF KENYA

High Court at Nyeri

Criminal Revision 543 of 2012

IN THE MATTER OF INQUEST INTO DEATH OF

JOHN MUGENYU KARITU - DECEASED

MARY WANJIRU KARITU.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

REVISION

This is a matter referred to this court for revision under the Provisions of Sec 362-367 of the Criminal Procedure Code by the office of Director of Public Prosecution.

After hearing of the witnesses the court found that there was no adequate evidence to charge the suspects in connection with the death of the deceased herein.

I have evaluated the evidence tendered before the court conducting the inquest. Whereas the evidence tendered creates great suspicion that the suspects in the inquest might have contributed to the death of the accused having handled him prior to his death, the evidence does not prove that they actually committed the assault beyond reasonable doubt as required standard of proof, as many people handled the deceased too prior to his death too.

The deceased's state of health prior to his arrest was not investigated. The deceased was awakened from sleep for arrest. Had evidence to that state before arrest been adduced it would have have ousted blame to events prior to suspects handling him. They have denied assaulting him.

Whereas it is not in doubt that the cause of deceased's death was out of injuries concomitant with assault of the deceased, there is no corroboration of the evidence pointing that the suspects in this matter are actually the ones responsible for the assault and in absence of that proof the standard required has not been met, as its unsafe to positively find against the suspects.

In the absence of any additional evidence provided to this cause I therefore uphold the finding of the trial court and dismiss this application.

Dated and Delivered at Nyeri this 14th day of February 2013.

**J. WAKIAGA
JUDGE**