



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
CRIMINAL CASE NO. 26/2009

REPUBLIC.....PROSECUTOR
VERSUS
SAMWEL KIPROTICH CHEPKWONY.....
.....ACCUSED

RULING

Prior to his arrest and arraignment in court in May 2009, the accused **SAMUEL KIPROTICH CHEPKWONY**, had lived with his wife; **CATHERINE CHELANGAT**, and their three children in Kiptenden village in Kipkelion District of the Rift Valley Province. The third child was **BEATRICE CHEPTOO**, now deceased, who was aged four and a half months as of October 2008.

The accused had had a quarrel with his wife on 3rd October 2008 and as he suspected that his wife might run away he remarried at home with her throughout on 4th October 2008. She went to her parent's home which was not far away, when the accused returned home on 5th October 2008, he found his wife and little **BEATRICE CHEPTOO** missing. He headed to his parents-in-law where he found them. He demanded that they return home. The accused's mother-in-law was unable to control the accused who grabbed little **BEATRICE CHEPTOO** and ran away carrying her with him. Alarm was raised and neighbours gave chase. They were unable to catch up with the accused who injured and abandoned **BEATRICE CHEPTOO**. The neighbours found her with a cut injury in the stomach and took her to Fort Tenant Health Centre from where she was referred to Kericho District Hospital where she died.

The wife of the accused reported the matter to the police and on 16th May 2008, the accused was nabbed.

Investigations into the death of the deceased revealed that **BEATRICE CHEPTOO** had been cut in the stomach with a sharp object and died of shock from injury and bleeding from the stomach. A Post Mortem was conducted by Dr.Ochieng who made this finding which he recorded in more technical language in the Post Mortem Report dated 6th October 2008 which was produced as evidence and marked as Exhibit No P1.

The accused was initially charged with murder contrary to **Section 203** as read with **Section 204** of the Penal Code. This charge was reduced to manslaughter under **Section 202** as read with **Section 205** of the Penal Code.

The accused pleaded guilty to the manslaughter charge and was convicted on his own unequivocal plea of guilty.

In mitigation, Mr.Oboso, Learned Counsel for the accused, submitted that the accused was remorseful and had been in custody for over one year. He informed the court that the accused had reflected over his life and regretted having killed his own daughter. Mr.Oboso further told the court in mitigation that the accused is an only child who depended on casual jobs to support his mother, wife and remaining children. He sought a lenient sentence on his behalf and expressed the hope that the accused will reform and put behind him the tragic circumstances in which he killed his own daughter.

I have carefully considered the circumstances in which the accused committed the offence. I have also duly considered the mitigation ably presented by Advocate Oboso on behalf of the accused and have taken into account the fact that the accused is a first offender and that he has been in remand from May 2008 to date. I have also considered the fact that the accused is a young man who slates that he is remorseful and is willing to turn a new leaf and escew crime in future.

Manslaughter is a serious felony. It carries a sentence of life imprisonment. The accused took the life of his own daughter ostensibly so as to hurt his own wife. **BEATRICE CHEPTOO** was an innocent little helpless angel caught between an vial husband and wife. She did not have to die. And there was nothing to be gained by the accused in killing her. It was a ruthless, brutal, callous and inhuman act by the accused. Life is precious and no one has the right to take away the life of another. Society expects that Courts of Law will protect the Sanctity of life and punish appropriately those who destroy it. The accused must be punished for this heinous crime. After taking all the circumstances into account, I sentence the accused to imprisonment for a period of ten years.

DATED at **KERICHO** this 29th day of July 2010

G B M KARIUKI
RESIDENT JUDGE

COUNSEL APPEARING

P.Kiprop, State Counsel for the Republic.
Mr.Oboso Advocate for the Accused