



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT EMBU**

**Criminal Appli 1 of 2006**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOHN NJUE NGUTA.....ACCUSED**

**RULING**

John Njue Nguta (Accused) was charged with the offence of murder contrary to section 203 read with 204 Penal Code that on 13/11/2006 at Kamunyange village Kianjuri location he murdered Susan Mutheu Njue (deceased.)

On 13/1/2006 PW1 who is a cousin of the deceased had gone to fetch water on the way she met other women whom she did not know. She could hear their voices across the valley. She heard them talk about Susan who was married on the other side of the river that she was sick. PW1 was with other two women. PW1 and the other women decided to go and see Susan (deceased) across the valley. On reaching her house they met her husband John Njue Nguta (accused). He was outside the compound. After greeting them they said they had come to visit Susan. He called her (Susan) from the house. As she approached where the visitors were standing the accused called her back into the house. Then while inside the house the visitors heard accused say "why do you want to cut me" she called the witness but when they heard she was being cut they run away. PW1 saw her being cut. Accused was chasing deceased carrying a panga. He was chasing her and she ran limping. PW1 saw the people who normally assist the chief. She said she would go to report the incident. Later she returned at night and found deceased had been taken by police. Deceased was dead and police officers were in her home.

PW2 confirmed what PW1 said and added that deceased had been injured by her husband (accused). They went to deceased home the accused was holding a sharp knife (panga). She saw accused cut deceased on the shoulder and she ran away. Note there are very clear photographs in evidence which show the very serious injuries on the deceased's body. As PW1 & PW2 run away from the compound of deceased, they met assistant chief of the area. PW1 & PW2 were with PW3.

PW4 was another prosecution witness who received a call that his sister Susan was dead. He proceeded to Siakago Mortuary. He was present when postmortem examination was done. He observed that the body had severe cuts. Grace Njoki is a child of both deceased and accused. She came home from the river on 13/1/2006 and found her father having cut her mother. Her mother was lying in the garden. She had several cuts on her body. The assistant chief Joseph Nthiga Mugo also gave evidence to the effect that deceased had reported a quarrel with her husband earlier. She had been told to bring him to the chief on 12/1/2006 but they did not appear. However he was informed that the wife had been killed by the husband. He went there and arrested the accused. There was another evidence produced by the

prosecution.

Upon considering the evidence, I apply Section 306 (2). The Accused is entitled to defend himself. He may give sworn evidence or make unsworn statement and call witness.

Dated this 5<sup>th</sup> December, 2007.

**J. N. KHAMINWA**

**JUDGE**

**5/12/2007**

**Khaminwa – Judge**

**Njue – Clerk**

**Mr. Kimathi for State**

**Mrs Fatuma for Accused**

**Accused – present**

**Fatuma:** Accused will give his defence and make unsworn statement. No witnesses.

**J. N. KHAMINWA**

**JUDGE**

Defence case fixed for hearing on 6/3/2008.

**J. N. KHAMINWA**

**JUDGE**

Remanded in Custody. Production Order to issue.

**J. N. KHAMINWA**

**JUDGE**