



**REPUBLIC OF KENYA**

**HIGH COURT OF KENYA AT KERICHO**

**CRIMINAL CASE 6 OF 2004**

**REPUBLIC.....PROSECUTOR**

**-VERSUS-**

**STANLEY KIPKOECH SIELE .....ACCUSED.**

**JUDGMENT**

The accused was charged with **murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars of the offence were that on the 20<sup>th</sup> day of January, 2004, at Cherote village in Kericho District, he murdered **Thomas Langat**, hereinafter referred to as “**the deceased**”.

**Nancy Langat, PW1**, testified that on 20<sup>th</sup> January 2004, at around 6.30 pm, she was walking home when she saw the deceased and her mother in-law. She heard her mother in-law telling the deceased “**leave this issue and go to work**”. She did not know what they were talking about. The witness was aware that the deceased had earlier quarrelled with the accused. After sometime PW1 saw the accused rushing from his house carrying a torch. She saw the accused removing a knife from his trouser pocket. The accused stabbed the deceased under his left arm pit. PW1 screamed and many people went to the scene. The accused ran away with the knife and the people who responded to the screams by PW1 decided to take the deceased to a hospital but he died on the way. **Stanley Kipkorir Rono, PW6**, corroborated the evidence of PW1. He said that he saw the accused stabbing the deceased on the chest following a fight between the two.

On the same day at about 9.00 am, **Jackson Kiprono Lngat, PW3**, had heard the accused telling somebody else that he would cut the deceased’s neck and put the head in a paper bag and take it to the police station and then surrender to the police. On the same day at about 6.30 pm, PW3 heard people screaming outside the house of the deceased. When he rushed there, he found the deceased’s body covered as it lay in a motor vehicle. The body had a stab wound below the armpit. The police attested the accused from his house and he had no injuries

The evidence of PW3 was corroborated by that of **Cosmas Sang, PW4**, who testified that on 20<sup>th</sup> January, 2004, at around 6.30 pm, the accused told him that he was going to kill the deceased, the father of PW4. The accused asked PW4 to report that to his father but the witness did not do so. While they were still talking, the deceased showed up and the accused told him to his face that he would kill him. The deceased dared the accused to fulfill his vow and the accused ran to his house and got a panga and an iron bar. After about 15 minutes, the deceased returned and the deceased decided to engage him in a fight but the two were separated. Thereafter, the deceased decided to go to Kericho town but he realised that he had forgotten some keys in his house. He decided to go back for them and on his way he was attacked

by the accused and killed.

**PC, John Sangale, PW5**, testified as to how the accused was arrested after a report was made to the police.

**Dr. Athanasius Ochieng, PW2**, produced a post mortem report on the body of the deceased. He testified that the body had a stab wound on the left armpit about 3cm wide and 12cm deep. His opinion was that the deceased died of severe haemorrhage as a result of a stab wound.

The accused gave an unsworn defence and denied having murdered the deceased. He said that on 20<sup>th</sup> January, 2004, at about 5.00 pm, he met the deceased. The deceased armed himself with a piece of wood and tried to hit him with it. The accused ran away but the deceased chased him and caught up with him. He further stated that the deceased hit him on the head with a piece of wood and he also realised that the deceased had a knife in his hands. A struggle ensued and the accused alleged that he pushed the deceased to a nearby water trough and both of them fell down. As a result the deceased died. The accused said that he had no intentions of killing the deceased who was his cousin.

Although there were three assessors at the beginning of the trial, one of them stopped attending court in the middle of the trial and hearing went on in the presence of only two assessors.

Having summed up the entire case to the assessors and given them the appropriate legal guidelines, both of them reached the verdict that the accused was guilty of murder.

I have carefully examined all the evidence that was tendered before this court. There were at least two eye witnesses who saw the accused stabbing the deceased with a knife. The witnesses are PW1 and PW6.

The accused and the deceased had quarrelled shortly before the deceased was stabbed to death. The accused had even threatened to chop off the deceased's head, put it in a paper bag and take it to the police after which he was going to surrender. The accused had further told PW4 that he would kill his father and asked PW4 to report that to the deceased.

According to the evidence of Dr. Ochieng, the deceased's death was due to excessive bleeding as a result of a stab wound. That finding also corroborated the evidence of PW1 and PW6.

The accused's defence is untenable. If the accused had merely pushed the deceased into a water trough, the deceased would not have sustained a stab wound. It is therefore evidence that the accused stabbed the deceased and thereby caused his death. He did so with malice aforethought. I find the accused guilty as charged and convict him accordingly.

**DATED at Kericho** this 5<sup>th</sup> day of December, 2007.

**D. MUSINGA**

**JUDGE.**

**ACCUSED:** I have been in prison for long. I am sick. I pray for leniency.

**D. MUSINGA**

**JUDGE.**

**SENTENCE:** There is only one sentence that is prescribed under

the law. I hereby sentence the accused to death.

Right of appeal within 14 days from the date hereof.

Sentence passed at Kericho this 5<sup>th</sup> day of December, 2007.

**D. MUSINGA**

**JUDGE.**

Judgment delivered in open court in the presence of Mr. Koech for the State and Mr. Anyoka holding brief for Mr. Mutai for the accused.

**D. MUSINGA**

**JUDGE.**