



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Rugut (Criminal Case E012 of 2021)
[2025] KEHC 1821 (KLR) (21 February 2025) (Judgment)**

Neutral citation: [2025] KEHC 1821 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPSABET
CRIMINAL CASE E012 OF 2021
JR KARANJA, J
FEBRUARY 21, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

REUBEN KIPTANUI RUGUT ACCUSED

JUDGMENT

1. The Accused, Reuben Kiptanui Rugut, faces a charge of murder, Contrary to Section 203 read with Section 204 of the *Penal Code*, in that on the 14th/ 15th December 2011 at unknown time at Kipsiele Village Songhor Location of Nandi County murdered Sarah Chelagat Rugut [deceased].
2. The case for the prosecution was that the Accused and the deceased were man and wife who normally drank alcohol and often engaged in domestic squabbles. On the 14th December 2011, their daughter, Everlyne Cheptum [PW1], a standard five [5] primary school pupil at the time noted that her mother [deceased] had drank alcohol but not her father [Accused]. In the evening after taking dinner the family retired to bed, but Everlyne and her brother called Dominic went to sleep elsewhere.
3. She [PW1] returned to her parents' home on the following morning and found that her mother had been killed and her father was nowhere to be seen. The body of her mother had blood stains on the face and neck. She later found her father in the house of the son of one Joseph.

James Tarus [PW2], a Village Elder, was notified of the death of the deceased and proceeded to the scene. He noted that the deceased had blood stains on her head and neck. He did not find the Accused at the scene and went looking for him accompanied by some members of the public.
4. The Village Elder [PW2] and his team located the Accused in the homestead of one Joseph Kilel [PW4] and apprehended him. He was then escorted to the chief's camp.



Peter Kibet Walei [PW3], was on the morning of 15th December 2011 at about 7:00am at his home when he heard screams and rushed to the scene where he found the couple's children who informed him that their mother had been killed. He noted that the body of the deceased was bleeding from the head and had an injury on the neck. He then reported the matter to the chief and after the arrest of the Accused, he identified the body of the deceased for post mortem purposes. She [deceased] was his sister.

5. Koskei [PW4] was at home on 15th December 2011 at 7:00am when he heard screams from the Accused's homestead. The Accused was his neighbour. He rushed there and found a crowd of people including the Accused's children who were screaming and saying that their mother was dead.

He saw the body of the deceased lying facing down in a pool of blood. He could not approach the body due to traditional beliefs as his brother was married in that homestead.

6. Koskei [PW4] retreated and stood a distance away from the homestead from where he saw the Accused having been apprehended by members of the public. Another neighbour of the Accused, David Kipkorir Mitei [PW5], rushed to the scene after being attracted by screams, but on the way he joined some villagers running towards a river where they surrounded the Accused and saying that he had killed his wife.

7. Mitei [PW5] persuaded the Accused to surrender and escorted him to the Area's Chief Camp where he was formally arrested. He [PW5] later saw the body of the deceased inside her house lying on the floor with a cut wound.

The Accused's son, Henry Kipruto Tanui [PW6], was with his family at their father's home on the evening of the 14th December 2011 when they retired to bed after dinner. He went to sleep elsewhere, but on the following morning he heard his sister [PW1] screaming. He rushed to the scene and found his mother lying down on the floor with injuries on the head. He did not see his father, but learnt that he was pursued and arrested by villagers who handed him to the chief.

8. IP Samuel Madila [PW7] and his colleagues proceeded to the scene on 15th December 2011 at around 10:00am after receiving necessary information. They found the dead body of the deceased in a grass thatched house lying down in a pool of blood with injuries on the head. He saw a metal bar at the scene and learnt that the Accused had been arrested. He [PW7] then removed the body of the deceased to the Kapsabet hospital mortuary.

9. APC Sammy Muge [PW8], arrived at the scene at 9:00a.m on 15th December 2011 and found the body of the deceased in a pool of blood. He saw injuries on the body on the head and hand. He also saw a metal bar [P. Exhibit 1] near the body after which he formally reported the murder to Mberere Police Station.

10. CPL. Job Ondieki [PW9], took over the investigations of this case after the transfer of the previous investigation officer to Changamwe Police Station in the Coastal Region. He learnt that the murder report was made on 15th December 2011 and that the Accused had been arrested as the suspect. He noted that a metal bar [P. Exhibit 1] and a knife had been recovered at the scene. He also noted that witnesses statements had been recorded and that the Accused had been charged with the offence of murder.

11. CPL. Ondieki [PW9] produced the Accused's mental assessment report [P. Exhibit 2] which showed that the Accused was fit to plead and a post mortem report [P. Exhibit 3] which showed that the deceased died from a head injury due to intracranial haematoma arising from a domestic violence incident.



12. The Accused did not make any statement in his defence and opted to remain silent and was not under any obligation to prove his innocence.

On the contrary, the burden of proof upon a standard which is beyond reasonable doubt was lawfully placed on the prosecution whose evidence was not disputed with regard to the occurrence of the offence and the cause of death.

13. The only issue which represented itself for determination was whether the Accused was positively identified as the person who committed the offence. In that regard, there was no direct evidence against him. None of the prosecution witnesses saw him in the act of committing the offence. However, as deduced from the circumstances of the case it was most probable than not that the Accused was the Offender.

He was the last person seen or left with the deceased before she was found by her children and villagers having been killed and her body lying in a pool of blood within her homestead. The Accused with whom she was left at home when the family retired to bed the previous evening was nowhere to be seen.

14. He [Accused] was arrested at a neighbour's homestead shortly after the discovery of the deceased's dead body with injuries on the head and neck.

The post mortem report [P. Exhibit 3] confirmed that the deceased died from head injury and indicated that the injury was most likely caused by a blunt object used by an assailant.

15. The presence of a metal bar [P. Exhibit 1] near the body of the deceased overruled any suspicion that the deceased may have died from a fatal injury caused by a fall or a hard object.

The circumstantial evidence availed against the Accused pointed more to his guilt than innocence and this explains why he ran away from the scene of the offence after the fact. However, the evidence also pointed towards a domestic violence or fight between the couple which may have led to the Accused using excessive force against the deceased thereby causing her fatal injury.

16. The evidence by the couple's daughter [PW1] indicated that the couple's relationship was fairly good but prone to episodes of violence ignited by their love for alcohol. It was highly likely that one such episode occurred on the night of 14th/ 15th December 2011 after the couple retired to their matrimonial bed after they had been left alone by their children. The possibility that the deceased suffered fatal injury in a gender based violence negated the presence of malice aforethought in the mind of the Accused.

17. It is therefore the finding of this court that the evidence against the Accused was sufficient and credible enough to prove beyond reasonable doubt that he was responsible for the death of the deceased, but not of malice aforethought. He is hereby adjudged guilty for the offence of manslaughter Contrary to Section 202[1] of the *Penal Code* and is accordingly convicted.

DELIVERED AND DATED THIS 21ST DAY OF FEBRUARY, 2025

HON. J. R. KARANJAH,

JUDGE

