



Republic v Yegon (Criminal Case 32 of 2020) [2025] KEHC 2403 (KLR) (6 March 2025) (Ruling)

Neutral citation: [2025] KEHC 2403 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 32 OF 2020**

JM NANG'EA, J

MARCH 6, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

BETTY YEGON ACCUSED

RULING

1. Betty Yegon (hereinafter referred to as “the accused”) has been arraigned in this court on information that she has been charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence state that on 24th July 2020 at Mau Summit Police Station, Kuresoi Sub County, in Nakuru County, she murdered Gilbert Kipng'emp Yegon (herein referred to as “the deceased”). The accused denied committing the offence.
2. Hearing of the case was substantially conducted before my brother H. M. Nyaga, Judge who has since transferred to a different work station. This court took over on 7th November 2024 and upon compliance with the provisions of Section 200(3) of the Criminal Procedure Code, directed hearing to continue from the point my predecessor left off. The last prosecution witness (PW9) subsequently testified before me.
3. The prosecution evidence is that the accused and the deceased, a police officer, were spouses. On 24th July 2020 at around 7:00 p.m. or thereabouts the couple were in their house within Mau Summit Police Station lines. PW2, a Police Officer based at the station, noticed some commotion in the deceased’s house after a sufuria was thrown inform of him as he walked by. When he went to check what the matter was, he found the deceased lying down as the accused sat on him while hitting him using a jembe on the head. The witness identified the jembe in court. PW2 told the court that he knew the accused well and that she would visit the deceased on various occasions in the company of their children. The court was further told that the deceased appeared drunk that evening. He used to drink too much alcohol, according to PW2.



4. PW4, PW5 and PW8 were also police officers at the station on the material evening and confirmed PW2's testimony. The officers had reported the fighting couple and confiscated the jembe the accused was using to assault the deceased. On instructions of their bosses, the officers arrested the accused and the deceased and detained them in the station cells. The accused was said to be hostile to the deceased's colleagues for interfering in their domestic affairs. No physical injuries were noted on the deceased but he complained of pain. He was, however, said to be in a bad health condition in the morning and the accused was asked to take him for medical attention. The deceased's colleagues denied inflicting injury on the deceased as they separated and arrested the couple.
5. PW6 and PW7 are the deceased's brother and sister respectively. They visited their brother in hospital, and according to PW6, he had an injury on the head in respect of which a surgical procedure was done.
6. PW1, a Clinical Officer, testified that he learnt of the deceased's health condition on 28/7/2020. Saying that the deceased was his nephew, the witness stated that he had advised that he be referred to Kericho Nursing Home after he had been discharged from St. Joseph's Hospital in Molo. The deceased's condition continued to deteriorate requiring Intensive Care Unit (ICU) admission. He was moved to Real Hospital in Eldoret where he died on 22nd August 2020 nearly a month after the incident involving the accused.
7. PW3 is a Pathologist who carried out autopsy on the deceased's body on 25th August 2020 at Naivasha Sub County Hospital. Among external injuries noted were a closed dislocation of the right thumb. There was a healed scar on the left front side of the head that occurred out of surgery. The expert witness opined that the cause of death was "epidural and subdural haematoma due to severe head injury from blunt force trauma to the head."
8. PW3 told the court that on cross-examination by the defence Counsel (Mr. Kibet) that the deceased's nervous system showed signs of inflammation of the brain. The condition can be caused by an infection or a foreign body in brain tissue and can cause death, according to the Pathologist. PW3 further stated that epidural and subdural haematoma which he opined to have been "the most prominent injury" that caused the death, arises from multiple causes including assault, fall or accident. Persons who drink lots of alcohol are also said to possibly suffer brain atrophy that can lead to haematoma. Blood samples if analysed, could also help to identify the cause of death according to PW3. The autopsy report was tendered in evidence.
9. PW9 investigated the case. She states that she learnt of the incident in the deceased's house at about 10:50 p.m. on 24th July 2020. She went to the deceased's house within the Station's Police Lines where she found the accused and the deceased. The deceased allegedly complained of assault by the accused and a decision was made to detain the two over the incident. PW9 corroborated the other officers' evidence that the deceased had no visible injuries.
10. The following morning, the deceased could not speak and had to be taken to hospital where he was admitted for observation. According to the Investigation Officer, the deceased was later discharged but afterwards reportedly collapsed at home. He was taken to Real Hospital (Eldoret) where PW9 saw him in the hospital's ICU. The deceased was still unable to talk and thereafter passed on.
11. PW9 continued to testify that it was suspected that the accused caused the death. The accused was initially charged with the offence of assault which was substituted for murder when the deceased died. The assault charge was preferred without a medical report on the deceased. The officer exhibited a club the deceased claimed was used by the accused to assault him. A stone the deceased is said to have threatened to use in retaliation was also produced in evidence.



12. The defence and prosecution Counsel have not made submission on “no case to answer”. I have perused the prosecution evidence vis a vis the charge. At this stage the onus is on the prosecution to establish a prima facie case warranting putting the accused on his defence. In the famous case of *Ramanlal T. Bhatt v Republic* [1957] EA 332 the Court of Appeal for East Africa defined a prima facie case as “one on which a reasonable tribunal, properly directing its mind to the law and, the evidence could convict if no explanation is offered by the defence.”
13. In *Kibera Karimi v R* [1979] KLR 36 and *Festo Wandera Mukando v R* [1980] KLR 103 among many other judicial determinations it was observed that if the court concludes that “a prima facie” case has been made out, it is not advisable to give reasons for the decision. Obviously the reason is so that it does not appear as if the court has finally made up its mind before hearing the defence.
14. The deceased’s colleagues who testified alleged that the accused hit the deceased on the head using a jembe handle. No physical injuries, however, resulted. The post mortem report indicates the cause of death as epidural and subdural haematoma due to severe head injury caused by a blunt force trauma. An assault, fall or accident could also cause the condition as per the medical opinion. An infection or foreign body in the brain tissue can also cause death because of resulting inflammation of the nervous system.
15. The medical evidence therefore appears to support the evidence of the police officers who claimed to have witnessed the accused assaulting the deceased. The court will not, however, reach any conclusion now.
16. Without saying more at this stage, I find that a “prima facie” case has been made out warranting putting the accused on her defence. She is hereby put on her defence to the information and charge herein.

J. M. NANG’EA - JUDGE

RULING DELIVERED THIS 6TH DAY OF MARCH, 2025 IN THE PRESENCE OF:

Prosecution Counsel, Ms Sang

Defence Counsel, Mr. Kibet

Court Assistant (Jeniffer)

J. M. NANG’EA - JUDGE

