



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Luvutsa (Criminal Case E024 of 2021)
[2025] KEHC 10914 (KLR) (24 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10914 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAPSABET
CRIMINAL CASE E024 OF 2021**

JR KARANJA, J

JULY 24, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

SIMON LUVUTSA ACCUSED

JUDGMENT

1. Murder, Contary to Section 203 as read with Section 204 of *Penal Code* is the charge which was preferred against the Accused, Simon Luvutsa, on the allegation that on the 15th July 2020 at Cheptol Village - Nandi South within the larger Nandi County, he murdered Brian Ingalwa [deceased].
2. The prosecution case was that on the material date at about 7:00pm the deceased and the Accused were found by the deceased's mother, Josephine Musimbi [PW1], in engaging in a physical fight. She [PW1] restrained and separated them even as the deceased pointed at a neck injury inflicted upon him by the Accused.
3. After being separated, the deceased was taken back home by his mother, but was followed shortly thereafter by the Accused armed with a slasher which he used to stab deceased on his abdomen thereby occasioning him serious injury which turned fatal after he was rushed to a hospital at Kaimosi.
4. Patrick Keya [PW2], the deceased's father, a driver by occupation was notified on phone by his wife [PW1] that the deceased had been slashed with a knife by the Accused and seriously injured. He was rushed to Kaimosi hospital where he passed away.

Dr. David Akalicha Adoli [PW3], performed a post mortem on the body of the deceased and indicted in his report [P. Exhibit 1] that the cause of death was as exhibit secondary to Haemothorasic penetrating chest injuries occasioned by a sharp object/ weapon.



5. After the incident was reported to the police, Senior Sargent Ibrahim Abdinoor [PW4], conducted the necessary investigation by visiting the scene of the offence and gathering from the deceased's mother [PW1] the circumstances leading to the commission of the offence by the Accused who was at large at the time, having reportedly escaped from the area and could not be immediately traced.
6. The Investigations Officer [PW4] indicated that the Accused was later traced within Hamisi Sub-County and arrested. After being arraigned in court the Accused denied the offence and stated in his defence that he arrived home from work on the material date and prepared to take a shower only to realize that he had no soap. He decided to go buy one and in the process passed through the farm of a neighbour and met the mother of the deceased who asked him whether he knew that the deceased always stole her potatoes. He answered in the affirmative.
7. Later, the deceased approached him [the Accused] at his home armed with a knife. He picked up a fight with him [Accused] and they fought.
The Accused stated further that during the fight he held the knife in possession of the deceased and in the process the deceased was stabbed. He [Accused] escaped from the scene and later heard that the deceased had died from his injuries.
8. In his closing remarks, the Accused admitted indirectly that the deceased died from the injuries sustained by him during their fight but that he did not intend to kill him.
In effect, the Accused's defence was a clear admission that he was the person who inflicted the fatal injury upon the deceased using a sharp object, whether it was a knife or a slasher. That, this occurred when the two engaged in the unlawful act of fighting.
9. Although the Accused suggested that the deceased was the actual aggressor, the mother of the deceased [PW1] who witnessed the incident as it unfolded credibly indicated that the aggressor was the Accused who had earlier been separated from the deceased, but later confronted him [deceased] at his home and stabbed him with a sharp object.
10. Indeed, the doctor [PW3] confirmed that the deceased died from a penetrative stab wound on the right side of the chest caused by a sharp object. The Accused said that he escaped from the scene after the fact and according to the Investigation Officer [PW4] he remained at large until the time of his arrest within the Hamisi Sub-County. His attitude after the offence clearly indicated a guilty consciousness on his part.
11. This court must therefore find that it was the Accused who was responsible for the death of the deceased, but given the circumstances of the case it was clear that such responsibility was not of malice aforethought.
The Accused was apparently driven by anger, lack of self-control and usage of excessive force in the commission of the offence.
12. In sum, the prosecution case against the Accused established and proved beyond reasonable doubt the charge of manslaughter rather than murder against the Accused.
13. Accordingly, the Accused is hereby found guilty of the offence of manslaughter, Contrary to Section 202[1] of the *Penal Code* and is convicted thereof.

DELIVERED AND DATED THIS 24TH DAY OF JULY 2025

**J. R. KARANJAH,
JUDGE**

