



**Republic v Tuewi alias Kisiara & another (Criminal Case
25 of 2020) [2024] KEHC 2726 (KLR) (13 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 2726 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 25 OF 2020
HI ONG'UDI, J
MARCH 13, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

PAUL KIPKORIR TUEWI ALIAS KISIARA 1ST ACCUSED

RICHARD KIPKORIR SAND ALIAS SUNGURA 2ND ACCUSED

RULING

1. Paul Kipkorir Tuwei alias Kisiara (1st Accused) and Richard Kipkorir Sang alias Sunguta (2nd Accused) jointly stand charged with the offence of murder contrary to Section 203 as read with section 204 of the Penal Code.
2. The particulars are that the 1st and 2nd accused on the 10th day of May 2020 at Tinet Area, Kuresoi South sub county within Nakuru county jointly murdered Everlyne Chepkemoui Busienei.
3. They denied the charge and the matter proceeded to hearing. For over 3½ years the prosecution was only able to present three (3) witnesses before court. The prosecution case was finally closed on 7th February, 2024.
4. PW1 – Dr. George Bikeki who conducted the post mortem found the cause of death to be Asphyxia due to upper airway obstruction from strangulation (EXB1).
5. PW2 – Simon Rotich was the area assistant chief. He received a call on 11th May, 2020 by one Rodgers who told him of a lady who had died near the forest. Three suspects were arrested but one was later released. He said he had known the accused persons for thirty years, but he did not know of their drinking habits.
6. PW3 – No. 111006 P. C Oketch was one of the officers sent by the OCS on 11th May, 2020 from Keringet police station to go and collect the dead body. It belonged to a woman aged 43 years and called



Everlyne Chepkurui Busienei. They re-arrested the two accused plus John Rop. A post mortem was conducted on 14th May, 2020. He testified that the evidence gathered placed the accused persons at the scene, hence their being charged. He made mention of some witnesses like Josephine, Mercy and Joyce Chelangat who had seen the accused plus the deceased together and they were all drunk. None of these persons testified.

7. Besides the evidence of these three (3) witnesses there is no other evidence which was presented. From their evidence there is no dispute about the fact of death. PW1 gave the cause of death as stated in the post mortem report (EXB1). The death was not natural as can be seen from EXB1.
8. Besides what PW2 and PW3 were allegedly told about the accused and the deceased no serious evidence has been placed before this court to connect them with the said murder. It is not for this court to start speculating on PW2 and PW3 to know why their witnesses even when bonded have not been appearing to testify.
9. My finding is that the prosecution has failed to establish a prima facie case against both accused persons. For my part I find them not guilty and acquit them forthwith under section 306(1) of the Criminal Procedure Code. They shall be set free unless otherwise lawfully held under separate warrants.
10. Orders accordingly

DELIVERED, DATED AND SIGNED THIS 13TH DAY OF MARCH, 2024 IN OPEN COURT AT NAKURU

H. I. ONG'UDI

JUDGE

