



**ODPP v Jacinta Chepkorir Langat (Criminal Case 1 of 2017)  
[2023] KEHC 91 (KLR) (17 January 2023) (Judgment)**

Neutral citation: [2023] KEHC 91 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE 1 OF 2017  
TM MATHEKA, J  
JANUARY 17, 2023**

**BETWEEN**

**ODPP ..... REPUBLIC**

**AND**

**JACINTA CHEPKORIR LANGAT ..... ACCUSED**

**JUDGMENT**

1. Jacinta Chepkorir Langat is charged with Murder contrary to section 203 as read with section 204 of the *Penal Code*. It is alleged that on the December 29, 2016 at Rikoko in Rongai Sub-County within Nakuru County, she murdered Briton Kipkoech.
2. She pleaded not guilty to the charge. The trial started before Hon. Lady Justice Maureen Odero on April 26, 2017.
3. The case for the prosecution was that the accused was the wife of PW1 Michael Kiprono Langat. They had one child Briton Kipkoech who by then was 3 ½ years. On the material date December 20, 2016 the couple had a quarrel. The husband left to sell tea leaves. It was 3.00p.m. He returned at about 6.00p.m. The accused had taken her belongings and left with the child. According to him he was not worried because his wife was in the habit of running away to her parent's home each time they had a disagreement. So, he did not follow her because he expected her to return with the child as usual.
4. On December 30, 2016, he received a call from one Enock Langat, a brother to the accused. He was the bearer of bad news, that the accused had killed their child.
5. He was in shock. He testified that upon receipt of the news he discussed with his parents, and they began to prepare for the burial. Thereafter he saw the body at the mortuary where he identified it for autopsy.



6. PW2, Sarah Chepchirchir told the court that the accused was her cousin and she visited her on December 23, 2016 at 8.00p.m. There were celebrations related to the circumcision ceremony. The accused left with a promise of returning the following day. She did not.
7. On December 29, 2016, she was called by a neighbor that a body of a child had been found in the river. She went there and saw that it was her nephew. She said that the accused would run away from her husband and always went back. Whenever she ran away she never left her child behind with the husband.
8. The accused's brother Charles Kibet Malakwen, PW3, testified that he met the accused on December 29, 2016 about 7.00p.m. He asked her where her child was. She told him that the child was with his father. They parted ways as she told him she was going to her parent's home.
9. The following day December 30, 2016, he was rung by his brother Enock who told him that the child's body had been retrieved from the river. He went there and saw the body.
10. He too testified that the accused was in the habit of running away from her husband's home, she would always come with her baby. He believed that she loved the child.
11. PW5, Charles Sigilai was the Assistant Chief to whom the report was made that the body of a child had been found in the river. On arrival at the scene he found that the body had already been fished out of the water, he rang the OCS Rongai Police Station. Boda boda riders who had earlier seen the accused with the child, followed her to Salgaa and brought her to the scene.
12. PW6, Simon Malakwen Rono testified that he was among the people who fished the child's body out of the river.
13. PW7, No.2007193 APC Evans Kiprop was based at Summet AP Post. He received the report from the area Chief, PW5. He phoned the OCS, and because people wanted to lynch the accused, he handed her over to the police. He added in his testimony that the accused person told him she had killed her child because she had got a job in Nairobi and her husband was not assisting her.
14. On examination, he said that he was the arresting officer, that his rank was that of a Constable. That he too was beaten by the irate crowd as they wanted to lynch the accused. He testified that he asked her whether she had done it, and she agreed.
15. PW8, Enock Kimutai Langat was heard by Ngetich J on December 16, 2020 after transfer of trial judge in 2018. He testified that on December 29, 2016 he was from Salgaa going to where he ran his shop. He found his sister, the accused with her son. She was seated near the river. He greeted them and went on to his errands.
16. Later at 8.00p.m. the accused went and asked him for his phone number. He refused to give her. The record shows that he said the reason was "because I thought she wanted to disturb me". Then his brother Charles Malakwen called. The accused spoke with him. Shortly thereafter the brother came and asked for paper and pen.
17. When the brother returned the pen, Enock asked why the accused was asking for money. Charles told him that the accused wanted to go to Nairobi, because she had a problem with the husband, and she would use the number to send money.
18. On December 30, 2016, about 4 p.m. a boda boda rider passed by his shop and told him that the body of a child had been found in the river. He went there and found that it was his sister's child. Some



- people said she had been seen going towards Salgaa. Boda boda riders went to look for her. Police came and took the body.
19. On cross-examination he said that it was normal for people to sit near the river, that there was a bridge where people sat. He said he did not know how she related with her child. That when she came home she said she had marital problems with her husband.
  20. PW4 Dr. Daniel Wainaina was the Medical Officer of Health (M.O.H.) Nakuru County. He conducted the autopsy on the body of the child on January 5, 2017. He found a large swelling on the front of the face near the right eye, multiple minor bruises on the upper neck, and minor bruises on both arms.
  21. The body had a fracture of the right frontal skull extending to the right eye socket, massive intracranial bleeding. Cause of death – severe head injury following blunt force trauma.
  22. PW9 No 72446, Cpl Joash Musikia testified on December 16, 2020 as the investigating officer. He told the court that he received the information on December 30, 2016 from the OCS Rongai, while he was at Salgaa Police Station. He and Cpl Wario proceeded to the scene. They received the suspect, and handed over to the police post while they took the body to the mortuary. After the postmortem they brought the accused for plea. He said on cross-examination that the accused confessed to killing her child.
  23. The prosecution closed its case and on January 27, 2021 the accused was found to have a case to answer.
  24. The trial judge was transferred before the defence hearing. The matter was placed before me on November 30, 2022
  25. The accused person made a sworn statement. She told the court that in 2016, she was 19 years old, she was married and had a 3 ½ year old son. Both her parents were dead; her mother having passed on in 2015.
  26. Her marriage was rocky, and she would run away to her parents and the husband would come and ask for forgiveness. and he would go back.
  27. She said that on December 29, 2016 when she woke up, she felt that since the death of her mother, her life had become harder. Her life, marriage were all hard. Home was also hard. She decided to kill herself. She decided to take the child back to his father because she and her siblings were quarreling over the child.
  28. On the way she met her brother Enock. She told him she was returning the child. He told her not to. She told him about her problems. He told her to deal with her problems. She went to her aunt and shared her concerns. Her aunt told her to go to her mother’s grave.
  29. She got angry. She went and threw her child into the river. She went back home. She was asked where the child was by her cousin. She said that she had taken the child to the father.
  30. She said she regretted her actions. That she was just stressed by everything. She said it happened on December 28, 2016 and not on December 29, 2016. She denied having killed the child because she had found a job in Nairobi. She denied borrowing any money to go to Nairobi or her brother’s phone to call someone in Nairobi.
  31. She testified that her brother Enock had told her to leave her husband, but she had refused. That since the death of her mother her relationship with Enock was not good.
  32. She told the court she did not deny throwing her child in the river, but she regretted it all the time.



33. Upon her testimony, she closed her defence.
34. Neither side made any submissions.
35. The only issue for determination is whether the accused is guilty of murder.
36. The ingredients for murder are basically: -Unlawful killing of a personBy the accusedWith malice aforethought.
37. There is no doubt that the accused killed her son. She admits to having thrown him into the river out of stress and anger after failing to get help from her brother and aunt following her quarrel with her husband.
38. Going by her testimony, the accused was married at 16 years, and was therefore a victim of child marriage. It appears from the evidence by the husband and her family that this marriage was unstable, and she was always running away from her husband's home and going to her parent's home, but since the death of her mother, home had stopped offering any refuge to her, in fact from her own brother's evidence (Enock), she had become such a "sumbua", a troublesome person to the extent that he was not willing to give her his phone number.
39. Hence, I find that the prosecution case that the motive for killing the child was so that the accused could go and work in Nairobi, to be shaky when held against the frustrations of a teenage wife/mother without any psycho-social support.
40. The fact is that the accused person killed son in circumstances that present a person who may not have been in full control of herself.
41. Hence while the act of killing the child by throwing him into the river is established, the mens rea for the killing is absent.
42. In the circumstances, I am of the view that the offence of murder is not proved, but the offence of Manslaughter Contrary to Section 202 as read with 205 of the [Penal Code](#) is proved beyond reasonable doubt.
43. In the circumstance the accused person is found guilty of Manslaughter Contrary to Section 202 as read with 205 of the [Penal Code](#) and is convicted accordingly.

**Dated, signed and delivered this 17th day of January 2023.**

**Mumbua T. Matheka,**

**Judge.**

C/A Jennifer

For state: Ms. Murunga

For Accused: Mr. Murunga absent

Accused Present

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