



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KERICHO**

**HCCR NO.7 OF 2016**

**REPUBLIC.....PROSECUTION**

**VERSUS**

**STANLEY KEINO KIBET.....ACCUSED**

**SENTENCE**

1. Stanley Keino Kibet was charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence were that on the 6<sup>th</sup> day of March 2016, at Kenugat Village in Kericho District, he murdered Rose Chelangat Keino.

2. When the matter came up for hearing on the 26<sup>th</sup> of October 2016, the State through Learned State Counsel, Ms. Keli, intimated that after considering the evidence, it was of the view that the case was amendable to plea bargaining, and that it would make an offer to the accused person. Subsequently, a plea agreement was entered into, as a result of which the accused was convicted on his own plea of guilty to the offence of manslaughter contrary to section 202 as read with section 205 of the Penal Code. The state indicated that the accused could be treated as a first offender.

3. The facts of the case as contained in the plea agreement and admitted by the accused are that the accused was the husband of the deceased, Rose Chelangat Keino. On 6<sup>th</sup> March 2016, at around 6.00 p.m., the accused arrived home from a drinking spree and found the deceased with their three children. The deceased was also drunk. The couple started an argument over some Kshs.600/- that could not be traced in the house, with each blaming the other for taking the money. They then started fighting and the accused took a stick with which he started beating the deceased all over her body. The deceased then fainted and the accused took her to sleep in the bed.

4. At around 3.00 a.m., as the couple were sleeping, their younger child started crying, and the accused tried to wake the deceased up so she could breastfeed the baby but the deceased did not wake up. It is at this point that the accused realised that his wife had passed away, and he went out to inform his brother, Christopher Kiprop, who was also his neighbor. The deceased also informed his brother Daniel that he had assaulted his wife and she had died. He thereafter disappeared into darkness. On 8<sup>th</sup> March 2016, the accused surrendered himself to the Assistant Chief of Koitaburot Sub-location, Mr. Samuel Langat, who alerted police officers, and the accused was arrested.

5. The matter was reported to Kipsitet Police Station, and the body was taken by police to Kericho Hospital Mortuary. A post mortem conducted at the hospital revealed that the deceased had died as a result of injury to the spleen and lungs which caused internal bleeding. The accused was also mentally examined and was found fit to stand trial.

6. In mitigation, it was submitted on behalf of the accused by his Learned Counsel, Mr. Motanya, that the accused is aged 30 years, and he and the deceased had 5 children, the oldest of whom is 10 years old, and the last one year old. That both the accused and the deceased were drunk and they started fighting, and it is unfortunate that the accused beat the deceased with a stick without knowing that it would result in her death. That the accused has been in custody since March of this year, and has had time to reflect and is quite remorseful. He was now a committed member of the Full Gospel Church and has resolved not to go back to alcohol. He was a first offender and had resolved to be a good member of society and to take care of the children, and he pleaded for a non-custodial sentence.

7. This Court called for a social inquiry report to be prepared in respect of the accused prior to sentencing. A report dated 17<sup>th</sup> November 2016 was filed. According to the report, the accused alleged that the deceased provoked him and he picked up a stick and hit her with it. It further states that the accused had no criminal record but was sometimes engaged in consumption of local brews which caused domestic violence. The families of the deceased and the accused have reconciled and are taking care of the children together.

8. I have considered the circumstances of this case and the mitigation by the accused, as well as the report from the Probation Office. The accused pleads for leniency and promises to be a good member of society. I note also that both the deceased and the accused were drunk at the time the fight that resulted in the deceased's death occurred. However, it is not lost on the Court that a human life, the life of the wife of the deceased, and the mother of five children, was lost. It was lost in the course of domestic violence, and it is noteworthy that it is the accused who took a stick and started beating the deceased all over her body. The Court further notes that the accused sometimes resorted to domestic violence as indicated in the social inquiry report. This is a practice that must not be countenanced nor condoned.

9. Given the circumstances, the accused must take responsibility for his actions which resulted in the death of his wife. Accordingly, this Court sentences him to serve three years' imprisonment and a further three years on probation. The right to appeal within 14 days from today's date has been explained to the accused.

10. Orders accordingly.

**Dated, Delivered and Signed at Kericho this 5<sup>th</sup> day of December 2016.**

**MUMBI NGUGI**

**JUDGE**