



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KITALE
CRIMINAL CASE NO. 7 OF 2012

REPUBLIC PROSECUTOR

VERSUS

LONIKA NGURIAMUK LOKWO.....ACCUSED

J U D G E M E N T

1. The accused, Lonika Ngurianuk alias Lokwa, is charged with murder, contrary to section 203 read with section 204 of the Penal Code, in that on the 16th January, 2012, at Sobukwa Sub-Location, West Pokot County, he murdered Hellen Cheptios.

2. The case for the prosecution was that on the material date, the deceased was a visitor at the home of her niece, Dorcas Nguriamuk (PW2), when the husband to Dorcas (i.e Samson Nguriamuk PW3) disagreed and quarreled with the accused over some chicken eggs. In this process, a fight erupted between themselves.

3. The quarrel and fighting went on for a considerable period of time before the accused left the scene only to later return while armed with a bow and arrows. This created a scene of danger on the part of Samson (PW3) who fled from the scene to save himself.

4. He (PW3) went to hide nearby and from his hideout noted that a fire had erupted in his homestead. His wife (PW2) who remained behind indicated that their grass thatched house was set a blaze by the accused, a brother to her husband. The deceased was inside the house when it was set a blaze. She suffered severe burns and passed away while undergoing treatment at Ortum Hospital.

5. Prior to her death, the deceased was visited in hospital by Florence Ruto (PW1),to whom she explained the circumstances leading to the fire and said that the accused was suspected of having set the house on fire.

CIP John Thiringi (PW4), investigated the case and in the process proceeded to the scene where he took photographs of the burnt house (PE.1). He also proceeded to hospital and took photographs of the deceased showing the injuries suffered by herself.

6. According to the investigations officer (PW4), the fire was set by the accused in the process of a brawl between him and his brother (PW3). The accused who had already been arrested was eventually charged with the present offence. His defence was that he did not commit the offence and that on the material date he was engaged in drinking spree with his brother and others. He disagreed with his brother in the process and they fought. They were separated and he went to his home but on the following day he

was confronted and arrested by administration police officers who took him to Kapenguria police station where he was charged with the offence of murder.

7. Basically, the prosecution was required to prove beyond reasonable doubt that the death of the deceased was as a result of an unlawful act and that the accused was responsible for the said act. In the regard, the evidence of the prosecution witnesses (PW1, PW2 and PW3) was strong and credible enough in proving that the deceased suffered injuries caused by a fire in the house in which she was sleeping and which fire was started by the accused during a quarrel and fight with his brother.

8. The act of setting the house on fire was an unlawful act and though denied by the accused, there was ample evidence pinpointing him as the culprit. The investigations carried out by CIP Thiringi (PW4) revealed that the accused was targeting his brother (PW3) when he set the house on fire.

It was unfortunate that the deceased was inside the house when it burnt. She ended up sustaining fatal injuries for which the accused must be held criminally responsible.

9. However, it would appear from the whole evidence that the circumstances leading to the unlawful act were prompted by intoxication on the part of the accused and his brother. He (accused) cannot be said to have had the necessary interest to kill the deceased when he set the house on fire.

In fact, his brother (PW3) indicated that it was not known that the deceased was in the house when it was set on fire.

10. In the upshot, the court finds that the charge established against the accused beyond reasonable doubt was that of Manslaughter rather than murder.

Consequently, the accused is herein found guilty of manslaughter, contrary to section 201(1) of the Penal Code and is convicted accordingly.

J. R. KARANJA

JUDGE

(Delivered / Signed this 2nd Day of June 2015)

J. R. KARANJA

JUDGE