



REPUBLIC OF KENYA



**Republic v Jobwe (Criminal Case 33 of 2018)
[2025] KEHC 14103 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14103 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE 33 OF 2018
WM KAGENDO., J
OCTOBER 2, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ANWAR BAKARI JOBWE RESPONDENT

RULING

1. PW 1 was No.23XXXX24 ASP Philip Cheruyot. His evidence was that on 26/06/2015, one Jackson Sanya an Investigating Officer asked him to record a confession statement.
2. That Jackson added that the person's wife and brother were present. That he called for the suspect who was taken into his office while handcuffed and he instructed the investigator to remove the handcuffs.
3. That the suspect said he wished to make a confession and he was comfortable using the Kiswahili language. That he also explained all the rights including the right not to be coerced, intimidated or tortured and that there were no promises attached to the confession.
4. That he also asked about witnesses and the two witnesses were ushered in and he confirmed their details from their identification cards. That the 2 witnesses also confirmed their willingness to be present in the proceedings.
5. That he further cautioned the suspect that he was not obliged to say anything and that all he said would be recorded claim in writing and may be given as evidence.
6. That the witness then introduced himself and then narrated the entire story in Kiswahili. That he then reached out the statement back to the witness and asked if the suspect wished to make any corrections.
7. That the witness signed the statement and the certificate. That the two witnesses also signed the certificate. That the recording took one hour between 9.00am and 10.30am.



8. He added that the suspect stated that he was being tormented by spirits and attacked by demons. That he (suspect) mentioned being followed by the spirit of the deceased.
9. Under cross examination PW 1 stated that he was not aware that the accused had been handcuffed with the left hand to his right leg while in the cells. He also stated he did not notice any cut on the suspects right ankle. That the handcuffs were on suspects hands.
10. PW 2 was Johnson Sanga the Investigating Officer. He stated that the suspect did not have any complaint of being oppressed while in the cells and that his health was good. He stated he was not aware of the allegation about the suspects leg being handcuffed to his right hand.
11. In his defence, the accused person stated that he was forced to record the said statement and it was not voluntary. That the words in the statement are not his. That he was called from duty and had been in the cells for 2 weeks and he was beaten and handcuffed in the cells. That he was in pain and confused and he did not know what was going on as he was deprived of his right.
12. Under cross examination, he admitted that his wife and brother were present when he recorded the statement.
13. DW 2 was Iman Bakari Jo, the accused person's brother. He testified that the accused person was handcuffed with the left hand to the right leg and he remand in that position through out. That his brother did not say anything to the Chief Inspector and it is the Chief Inspector who said everything and signed.
14. DW 3 was Nuru Anwar the wife to the accused person. Her evidence was the husband was in very bad shape after having been beaten and he had an infected wound from the handcuff. That her husband did not sign anything. He was just crying in pain.
15. That briefly was the evidence before court. I note that PW 1 was qualified to record a statement under Section 25(A) of the Evidence Act. He also complied by calling 2 witnesses who gave evidence as DW 2 and DW 3 in these proceedings.
16. I have looked at the evidence. The defence witness were not credible. The accused person initially said he did not say anything at all to the Chief Inspector. His brother also reiterated that DW 1 did not say anything. He later stated that the accused person was forced to sign the statement.
17. DW 3 went further to ever state that DW 1 did not sign anything. Yet we have the said statement signed not only by the accused person but by the two witnesses as well.
18. I therefore find that the out of count confession procedures were followed to the latter. The objection fails and the confession statement may be produced as evidence.

**DATED, SIGNED & DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS, THIS
02 ND DAY OF OCTOBER 2025**

HON. LADY JUSTICE W. K. MICHENI

JUDGE

In the presence of:

-the acused person and his advocate Mr Muyala Mr Sirima for the State

Bebora Court Assistant

HON. LADY JUSTICE W. K. MICHENI JUDGE



Signed by/for:

HON. LADY JUSTICE WENDY MICHENI

