Republic v Lengupae (Criminal Case E022 of 2023)
[2025] KEMC 86 (KLR) (5 May 2025) (Judgment)

Neutral citation: [2025] KEMC 86 (KLR)

REPUBLIC OF KENYA

IN THE WAMBA MOBILE LAW COURTS

CRIMINAL CASE E022 OF 2023

AT SITATI, SPM

MAY 5, 2025

BETWEEN

REPUBLIC ..... PROSECUTOR

AND

MURUNGARU LENGUPAE ..... ACCUSED

JUDGMENT

1. The accused person denied the charge of manslaughter contrary to section 202 as read with section 205 of the *Penal Code*. The particulars were that on 7TH March, 2023 at 2030hours at Sordo village within Samburu East Sub-County of Samburu County in the Republic of Kenya he unlawfully killed Griffin Ledakanya.

2. The accused person was represented by Mr. Kelvin Kihoro Advocate while Mr. Moses Ndira prosecution counsel conducted the DPP's case.

The Dpp's Case

3. PW1 Elizabeth Lerech told the court that on 7th March, 2023 at around 9pm her son Griffin Ledakanya returned home and informed her that he had just bene hit by one Mzee Lengupae. He complained that he flet like he was bleeding from the head and kept wiping his face as a result. Despite this, PW1 could not see any blood oozing from the head. He thus went to bed to sleep till the next day when he was escorted to Wamba Sub-County Hospital by PW1's co-wife Rose Ledakanya for medical attention. Later, PW1 visited the hospital. The injured son got transferred to Samburu County Referral Hospital and subsequently to Nakuru Provincial Hospital where he died after being in ICU for about 3months.

   Later, the accused contributed Kshs 150, 000 towards the hospital bill.

4. In cross-examination, the witness stated that she did not witness the actual incident but affirmed that the deceased son told her that their neighbour Lengupae (now accused person) was the assailant.

5. PW2 Rose Ledakanya A co-wife to PW1 told the court that on 7th March, 2023 Griffin arrived at the homestead at 9pm and reported to PW1 that he had been attacked by Lengupae who is their neighbour. The man fell unconscious and did not speak to PW2. That night, the deceased had breathing difficulties and was foaming in the mouth. At 400am the next morning, they escorted him to the hospital where he was admitted and after being stabilized he repeated that Lengupae had assaulted him the previous evening. When his condition deteriorated, he was transferred to Samburu County Referral Hospital and subsequently to Nakuru Provincial Hospital where it was established that he had internal head injuries. A surgery was done on 9th March, 2023 but he died 3months later while in ICU. His death was on 21st May, 2023.

6. By the time of his demise in the ICU, the deceased had accumulated a bill of Kshs 570, 000 and the accused person contributed Kshs 150, 000/- after local elders agreed to this.

7. In cross-examination, the witness indicated that the accused person disclosed in public in the presence of the chairman of the local elders that it was true that he had struck the deceased as alleged by the deceased.

8. PW3 Mathew Leyele the Chairman of Nyumab Kumi elders told the court that on 8th March, 2023 at 8am the accused person showed up at his homestead in the company of another Nyumba Kumi elder. Thereupon, the accused disclosed that on the previous dat at 8pm or thereabouts, he had fought with and injured one Griffin. The Accused person pleaded self-defence and revealed that he had used a stick to strike at the now deceased Griffin.

9. Afterwards, PW3 learnt that the injured man had been admitted at a local hospital. Later, the man was transferred to Samburu County Referral Hospital before his onward referral to Nakuru Provincial Hospital for advanced treatment before he succumbed to his injuries.

10. In cross-examination, he stated that he did not meet the deceased person during or after the incident. He added that he recorded the statement on 2nd June, 2023 which was 3months after the incident.

11. PW4 Senior Clinical Officer Peter Lelenguya told the court that the deceased was brought to his medical facility by his relatives on the morning of 8th March, 2023 with a report head injuries arising from an assault. He noted that the man was unconscious. As a clinician, he took the man's readings and admitted him before referring the matter to the police for investigations after noting that the case was consistent with injuries secondary to an assault. He produced the treatment notes in evidence as P.EX.1.

12. In cross-examination, the witness affirmed that the deceased was admitted for not more than 30minutes at their facility before being transferred to the Samburu County Referral Hospital and never regained consciousness. He admitted that he had recommended a CT Scan of the deceased's head but was not sure if this was done after he was transferred to other facilities.

13. PW5 S/NO. 249439 Corporal Guyo KanchorA told the court that on 30th May, 2023 I received a call from IP Andrew Nyabicha at 9pm requesting him to accompany IP Nyabicha to Sordoo village where he effected the arrest of a wanted man. He told the court that the initial report was an assault but it had matured into a murder case. he told the court they effected the arrest of the accused person without any incident since the accused person yielded.

14. In cross-examination, PW5 told the court that his role was to effect the arrest only.

15. PW6 DR. Titus Ngulungu told the court that he conducted the post-mortem examination on the deceased's body on 30th May, 2023 at the Nakuru County Referral Hospital and prepared the report which indicated that the deceased's body was positively identified by Lewis Loitemu a bother to the deceased. Upon examining the body, the pathologist noted the following:-A wasted body which suggested that prior to his death the body had not been getting sufficient nutrition;Prior to his demise, he was not getting sufficient oxygen;Tracheostomy seen – opening to the trachea by doctors to assist the deceased in breathing since he was not breathing well;Pus around the trachea;Deceased had pressure sores on his back, hips and heels due to immobility for prolonged period;Healing lacerations on the legs, upper limbs on the exterior surfaces;Swelling on the left side of the head; there was a healed wound consistent with a craniotomy – opening of the skull by doctors to treat haematoma inside the brain;Lungs covered with fibrilloid materials on the surfaces consistent with orthostatic pneumonia due to prolonged immobility; the pneumonia was severe;Excised scalpal incision on the left side the head with the bar holds were visible to hold the skull bone but they were healing;Dent on the frontal brain which had a clot – liposuctionOther systems were normal.

16. Based on the foregoing, he opined that the deceased died due to subdural haematoma in the brain attributable to blunt trauma force to the head. The trauma was made worse by the bedridden state of the patient who was immobile for prolonged periods of time. DR. Ngulungu then produced the report as P.Ex.2.

17. PW7 S/NO. 83999 PC Martin Maina testified as the investigating officer. He told the court that on 30/05/2023 he was minuted the case by IP Tanki whereupon he commenced inquiries. He stated that Elizabeth Lerechwa filed the report of the alleged manslaughter and named the accused herein. He recorded the witnesses statements which indicated that the deceased Griffing Ledakanya arrived homwe at around 10pm with a head injury and complained that Murungaru Lengupae had struck him. The chairman of the local elders indicated that the accused had reported to the chairman that he had struck a young man the previous day at the Tepesi bridge after the young man allegedly provoked him with an assault.

18. He learnt that when the victim was taken to the hospital, the accused person visited him and undertook to pay his hospital bills. The young man was admitted in hospital for about 3months with head injury but succumbed and a post-mortem examination done. The suspect was then arrested and brought to court. PC Maina produced the investigation diary as an exhibit in the case P.Ex.3

19. In cross-examination by Mr. Kihoro Advocate the witness pointed out that the assault took place on 10/03/2023 and the initial report indicated "LENGUPAE" as the assailant. The complaint was filed by the deceased's parents since the deceased was admitted in hospital. He added that no eyewitness saw the accused person in the act of assaulting the victim. He affirmed that when the accused person visited the injured man, he readily admitted to the victim's mother that he had struck the complainant but the accused did not record a formal confession.

20. In re-examination, the witness said that in the initial report, it was indicated that the complainant knew his assailant well.

21. At that stage, the DPP closed their case whereupon the court ruled that the accused had a case to answer and put him to his defence.

The Defence Case

22. DW1 Murungaru Lengupae gave sworn defence. He told the court that on 7th March, 2023 at 8pm he went to check on his camels since they had delayed to return from the pastures. He waited for the

herdsman to return the camels as usual at the designated point around the lugers. As he did so, he was accosted by 2 men who kicked and struck him without cause. The 2 men went away. He remained at the scene till the camels were brought over by the herdsman and he drove them home at 10pm. He briefed his wife about the assault by the 2 men on him and the next day alerted Chief Lembwakita about the incident.

23. He testified further that when he alerted Chief Lembwakita of the incident, the chief mobilized more than 100 elders to deliberate over the issue and forced him to sell some of his livestock to compensate the injured man. He said that he paid Kshs 150, 000/- as ordered by elders but 3 days later he was arrested by the police and accused of unlawfully assaulting the now deceased person who was a complete stranger to him.

24. In cross-examination, he told the court that on the material evening following the alleged assault, he had met one Mathew on the road but did not mention his assaulting Griffin Ledakanya. He admitted that he was arrested at night by the police. He admitted that he had no OB Entry and no Treatment notes to prove that he himself was the victim of an assault as pleaded in his defence. He denied that he had admitted to striking the deceased. As for the Kshs 150, 000/- he said that he paid it under duress.

25. In re-examination, he said that he did not disclose his assault on Griffin to Mathew but complained that he had been assaulted by 2 men without cause.

26. DW2 Nkiresi Lengupae affirmed that her husband returned to the homestead on the night of 7th March, 2023 and complained to her that 2 unknown men had assaulted him without cause. The next morning PW1 reported the issue to local elders. Later, a report emerged that Griffin Ledakanya had been assaulted badly and it was immediately suspected thatDW1 was the assailant hence his subsequent arrest and prosecution. Her husband indicated that he had been forced to pay Kshs 150, 000/= yet he himself was the victim of an assault by 2 unknown men.

27. In cross-examination, DW2 admitted that her husband paid the money as part of the cultural compensation following agitation by elders.

28. At that stage the accused person closed his defence.

Issues For Determination

29. The ingredients of manslaughter were recently highlighted in Republic Versus Rotich [2024] KEHC 16040 (KLR) (CM Kariuki J.):

> "Section 202 (1) *Penal Code* which defines the offence of manslaughter as:
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> "Any person who by an unlawful act or omission causes the death of another person is guilty of the felony termed as manslaughter."
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> ...
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> 17. The ingredients of manslaughter in Kenya include:Unlawful act: The accused intentionally committed an unlawful act. This act must be dangerous or involve a significant risk of injury to the victim.Culpable negligence: The accused's act or omission constituted culpable negligence.No malice aforethought: The accused did not act with malice aforethought."

Determination

30. From the tested evidence of the post-mortem report by Dr. Titus Ngulungu, the court finds that the DPP has proved that Griffin Ledakanya died as a result of a direct blunt force trauma to the head. Prior to his demise, Griffin Ledakanya had named the accused person as the inflictor of the head injury. He named the accused person as soon as he stepped back into his parents' house moments after the assault had taken place and this was strong evidence as explained by the Court of Appeal in Bernard Gathiaka Mbugua & 4 others v Republic [2016] eKLR (Waki, Nambuye & Kiage, JJ.A) where the learned Judges held as follows:

> 2. Perhaps the belief is encouraged by the emphatic pronouncements made by this Court in many of its decisions, on the significance of a first report. We may go back to 1952 in the case of Terekali & Another vs. Republic [1952] EA 259 when the predecessor of this Court stated as follows:-
>
> "Evidence of first report by the Complainant to a person in authority is important as it often provides a good test by which the truth and accuracy of subsequent statement may be gauged and provides a safeguard against later embellishment or made up case. Truth will always come out in a first statement taken from a witness at a time when recollection is very fresh and there has been no time for consultation with others..."

31. Having named the accused person herein before even his parent has asked him any question was strong evidence pointing towards the accused person's identity since he had not consulted any one to embellish the story. When he died as a result of the blow to the head as proved by Dr. Ngulungu, his naming the accused person as the assailant transformed into a dying declaration within the meaning of section 33 (b) of the *Evidence Act* and was admissible in law. A similar situation arose in the authority of Republic –versus- James Githinji Wamani [2020] eKLR (Jairus Ngaah J.). An extensive reproduction of the reasoning of the learned Judge is made hereunder:

32. The prosecution answer to the first limb of this question is primarily the evidence of a dying statement or declaration of the deceased. Moments before his death, he told his brother Ndei (PW1) that the accused had stabbed him. His other brother Ndegwa (PW2) also heard him say that Gidii had murdered him. He had been walking home with his brother all along, but the latter had to go back to buy cigarettes. Nyokabi (PW3) confirmed in her testimony that moments after the deceased and Ndei (PW1) left her bar, the latter returned to buy cigarettes. Nyokabi's testimony lends credence, at least to the evidence of Ndei, that he not only went back to the bar but that his brother was alone at the time he was assaulted.

33. The evidence of a dying declaration or statement is admissible under section 33 (a) of the *Evidence Act* cap. 80; it reads as follows:

> 33. Statement by deceased person, etc.,
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> When Statements, written or oral, of admissible facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence or whose attendance cannot be procured, or whose attendance cannot be procured, without an amount of delay or expense which in the circumstances of the case appears to the court unreasonable, are themselves admissible in the following cases—
>
> a. relating to cause of death when the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements

> are admissible whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

34. This provision of the law is in pari materia with section 32(1) of the Indian *Evidence Act*, which applied in this country prior to the enactment of our own *Evidence Act*. It has been applied in several cases where the evidence of a dying declaration has been brought to the fore; one such case was Jasunga s/o Okumu versus Republic (1954) 21 E.A.C.A 331. In that case, the deceased had been found lying on the road with a stab wound in his chest. He told the police officer who had found him that he had been stabbed by the appellant. The officer took him to hospital from where the deceased's statement was also recorded. In that statement, the deceased stated that he was on his way home when the appellant and another person confronted him. The appellant demanded money from him and assaulted him; he also threatened that he would kill him if he did not give him money. The appellant then drew a knife stabbed the deceased in his chest. He fell down and the appellant and the other man ran away. He died of internal haemorrhage and shock the following morning.

35. The learned trial judge convicted the appellant based on the assessors' unanimous verdict that the appellant was guilty. In discussing the admissibility of the deceased's statements, the court held as follows:

> In Kenya the admissibility of a dying declaration does not depend, as it is England, upon the declarant having at the time, a settled, hopeless expectation of imminent death, so that the awful solemnity of his situation may be considered as creating an obligation equivalent to that imposed by the taking of an oath.

36. In Kenya (as in India) the admissibility of statements by persons who have died as to the cause of death depends merely upon section 32 of the Indian *Evidence Act*. It has been said by this court that the weight to be attached to the dying decelerations in this country must, consequently, be less than that attached to them in England, and that the exercise of caution in the reception of such statements is even more necessary in this country than in England.

37. The question of the caution to be exercised in the reception of dying declarations and the necessity for their corroboration has been considered by this Court in numerous cases, and a passage from the 7th edition of Field on Evidence has repeatedly been cited with approval.

38. The caution with which this kind of testimony should be received has often been commented upon. The test of cross-examination may be wholly wanting; and... the particulars of the violence may have occurred circumstances of confusion and surprise calculated to prevent their being accurately observed...The deceased may have stated his inferences from facts concerning which he may have committed important particulars, from not having his attention called to them.

39. Particular caution must be exercised when an attack takes place in darkness when identification of the assailant is, usually, more difficult than in daylight (R v. Ramazani bin Mirandu (1934) 1 E.A.C.A 107; R v. Muyovya bin Msuma (1939) 6E.A.C. A. 128. The fact that the deceased told different persons that the appellant was the assailant is evidence of consistency of his belief that such was the case: it is no guarantee of accuracy.

40. And whether corroboration is necessary in order to sustain a safe conviction solely based on a dying declaration, the court had this to say:

> It is not a rule of law that, in order to support a conviction, there must be corroboration of a dying declaration (R. v. Eligu s/o Odel &Another 1943) 10 E.A.C.A 90; re Guruswami

> (1940) Mad. 158, and there may be circumstances which go to show that the deceased could not have been mistaken in his identification of the accused... But it is, generally speaking, very unsafe to base a conviction solely on a dying declaration of a deceased person, made in the absence of the accused and not subject to cross-examination, unless there is satisfactory corroboration. R v Said Abdulla, (1945) 12 E.A.C.A 67; R v Mgundwa s/o jalo and others, (1946) 13 E.A.C.A 169, 171.).

41. In addition to the cases cited above, we have examined the decisions of this court on the subject of dying declarations since 1935 and we have been unable to find a single case where a conviction has been upheld which was based upon a dying declaration without satisfactory corroboration, unless, as in Epongu's case (Epongu s/o Ewunyu, (1943) 10 E.A.C.A 90) there was evidence of circumstances going to show that the deceased could not have been mistaken in his identification of the accused.

42. As to the question of the sufficiency, admissibility and the weight to be attached to a dying statement; the court ruled as follows:

> The statement was, apparently taken when the accused was suffering from extreme exhaustion: it was un acknowledged and there is no means of knowing whether the deceased would have acknowledged its correctness or would have wished to alter or add to it, had he been able to do so. If the statement had, on the face of it, been incomplete because the accused had sunk into a coma before he finished it, it would have been inadmissible (Waugh v The King, (1950) A.C 203) ... It is not necessary, in order to render a dying statement admissible, that it should be a complete account of the attack, provided that it is, or may rationally be assumed to be, all that the deceased wished to say about it. (Sarkar on Evidence, 9th Edition, p 510). But the weight to be accorded to a dying statement must depend, to a great extent, upon the circumstances in which it is given, and the effects of a wound may dim the memory or weaken or confuse the intellectual powers. (Sarkar on Evidence, 9th Edition pp.303,309).

43. I have applied the Jasunga decision in at least two previous cases where this question has arisen; this is in High Court Criminal Case No. 27 of 2010(Nyeri), Republic Versus Albanas Kioi Maweu (2019) eKLR and in High Court Criminal Case No. 38 of 2011(Nyeri), Republic Versus George Mwangi Onyango.

44. As the Jasunga decision illustrates, the admissibility and perhaps the weight attached to a dying declaration in England is tied to "the declarant having at the time, a settled, hopeless expectation of imminent death; in which event, "the awful solemnity of his situation may be considered as creating an obligation equivalent to that imposed by the taking of an oath." Such conditions do not apply in Kenya and, for avoidance of doubt, section 33 (a) expressly states that dying statements "are admissible whether the person who made them was or was not, at the time when they were made, under expectation of death". But even if it was necessary that the deceased must have been in imminent danger of death, circumstances under which the declaration was made in the present case would fit the bill. The deceased here faced the prospects of imminent death and, as it turned out, he died soon after he was stabbed.

45. One theme that keeps recurring whenever evidence of dying declaration is considered is that of corroboration of the declaration. It is apparent from the excerpts of the Jasunga case which have been reproduced here that as much as the Court of Appeal for East Africa appeared to downplay the need for corroboration of the evidence of a dying statement, it still acknowledged that "... we have examined the decisions of this court on the subject of dying declarations since 1935 and we have been unable to find a single case where a conviction has been upheld which was based upon a dying declaration

without satisfactory corroboration." Thus, the absence of corroboration may not necessarily be fatal to the prosecution case but it is still relevant all the same; I suppose the degree of its relevance depends on the circumstances in which the declaration was made which in turn vary from one case to another."

46. This Honourable Court has applied the preceding extensive legal principles to the established evidence in the trial and is satisfied that the Dying Declaration of the deceased pin-pointed to Murungaru Lengupae as the assailant who inflicted the violence that was the causation of the eventual demise.

47. In defence to the DPPs' evidence, the accused person pleaded provocation by way of assault and also self-defence. He stated that he was struckby 2 unknown men and he retaliated. These defences have previously be discussed by the Court of Appeal vide the authority of VICTOR Nthiga Kiruthu & another v Republic [2017] KECA 251 (KLR) J Wakiaga, RN Nambuye, GK Oenga JJ.A.) :

> On the first issue, the approach we take is to fully associate ourselves with the principle in Mungai versus Republic [1984] KLR 85, as approved in Joseph Muriuki versus Republic [2016] eKLR, that the defence of self defence is known to law and where it is raised and the circumstances exist to show that the fatal blow was given in the heat of passion on a sudden attack or threat of attack which is serious enough to cause loss of control, then it is merged into provocation and the inference of malice is rebutted and the offence if disclosed will be one of manslaughter.

48. Under Section 208 (1) of the *Penal Code*, a person is provoked when a wrongful act or insult is done to him;

> ".....that is likely when done to an ordinary person or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, parental, filial or fraternal relation, or in the relation of master or servant, to deprive him of the power of self –control and or induce him to commit an assault of the kind which the person charged committed upon the person by whom the act or insult is done or offered.
>
> See also Cheboi versus Republic [2002] 1KLR 790.

49. The above definition was ably explained by the Court of Appeal of England in the case of Republic versus Duffy [1949] 1 ALLER 932 as follows:-

> Some act, or series of acts, done by the dead man to the accused which would cause in any reasonable person, and actually causes in the accused, a sudden and temporary loss of self - control, rendering the accused so subject to passion as to make him or her from the moment not master of his or her mind....."

50. In Peter King'ori Mwangi & 2 others versus Republic CR. APP. No. 66 of 2014, the Court identified two conditions as prerequisites for the application of provocation as a defence, namely:

(a) The "subjective" condition that the accused was actually provoked so as to lose his self control; and

(b) The "objective" condition that a reasonable man would have been so provoked"

51. The effect of upholding the defence of provocation in favour of an accused person is to reduce the offence of murder to manslaughter. See the case of Tei S/O Kibaya versus Republic [1961] EA 580 as approved in Roba Galma Wario versus Republic [2015] eKLR, thus:-

> In considering whether provocation was sufficient to reduce the offence to manslaughter, it is material to consider the degree of retaliation as represented by the number of blows and the lethal nature of the weapon used."

52. Turning to the doctrine of self defence, it is provided for under Section 17 of the *Penal Code* thus:-

> "17. Subject to any express provision of this code or any other law in operation in Kenya, criminal responsibility for the use of force in the defence of person or property shall be determined according to the principles of English common law".

53. The learned Judges of Appeal went on to hold that:

> The section has been ably construed in the cases of Republic versus Andrew Mueche Omwenga (supra); Roba Galma Wario versus Republic (supra) and Ahmed Mohamed Omar & 5 Others versus Republic [2014] eKLR. The principles that have emerged from these and other authorities are as follows:-
>
> (i) Self-defence, as the term suggests, is defence of self. It is the use of force or threat to use force to defend one self, one's family or one's property from a real or threatened attack. Self-defence is therefore a justification in the application of force recognized by the common law.
>
> (ii) The law generally abhors the use of force or violence, but there are instances when a person is justified in using a reasonable amount of force in self-defence if he or she believes that the danger of bodily harm is imminent and that force is necessary to repel it, meaning that the force must be necessary and that it must be reasonable.
>
> (iii) It is not necessary, however, for there to be an actual attack in progress before the accused may use force in self-defence. It is sufficient if he apprehends an attack and uses force to prevent it.
>
> (iv) The danger the accused apprehends however must be sufficiently specific or imminent to justify the action he takes and must be of a nature which could not reasonably be met by mere pacific means.
>
> (v0 What amounts to reasonable force is a matter of fact to be determined from evidence and the circumstances of each case."

54. In the present case, the court finds that the defence assertion of being assaulted by the deceased was shredded to pieces during cross-examination when the accused person admitted that he had no medical notes or even a police report to prove that he was unlawfully assaulted by the deceased person. The DPP had proved that after the assault, the accused person visited the victim in hospital. This was after the complainant had openly named him as the assailant. While at the hospital, the accused admitted to the complainant's relatives in the presence of the victim that he was the one that had struck the victim. While not amounting to a confession, the admission estopped the accused person from denying the course of events.

55. The effect of this admission was that it buttressed the DPP's evidence as discussed by the Court of Appeal in the authority of Abdalla v Republic [2024] KECA 634 (KLR) (AK Murgor, KI Laibuta, GV Odunga JJ.A.) in the following words :

> Turning to the 2nd issue as to what the appellant's refers to as a confession to PW2 and PW4 was admissible in evidence, we hasten to observe that what the appellant told PW2, PW4 and the complainant's mother, though loosely referred to as a confession by the trial court, cannot strictly speaking be termed as a confession within the meaning of section 25A(1) of the *Evidence Act*. It was an admission, which constitutes supplementary evidence that would, in ordinary circumstances, affirm the safety of a conviction in the absence of any direct or circumstantial evidence."

56. After making the said admission, the accused then made a payment, after elders discussion which he now terms as duress, of Kshs 150, 000/= towards the medical bill of Kshs 570, 000. How would he then plead that the 2 men who assaulted him were strangers and in the same vein visit the deceased herein the following day in hospital if he himself had not assaulted the complainant and named thereby by the victim? The court disbelieves his now torn defence and dismisses the same.

Conclusion

57. From the totality of material placed before the court, it has been proved that the accused person intentionally struck the complainant and the resultant head injury led to his demise. There was no provocation and he did not act in self-defence at all. He is guilty as charged and is convicted of manslaughter under section 215 of the *Criminal Procedure Code*. Right of appeal is 14 days.

DATED, READ AND SIGNED AT WAMBA MOBILE COURT THIS 5TH DAY OF MAY, 2025

HON.T.A. SITATI

SENIOR PRINCIPAL MAGISTRATE

WAMBA MOBILE LAW COURTS

Present

Dpp Moses Ndira

Accused Person

Lemarleni Senior Court Assistant