

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAPSABET

CRIMINAL DIVISION

CRIMINAL CASE NO. E032 OF 2023

REPUBLIC.....

.....PROSECUTOR

VERSUS

**VINCENT KIPKIRUI alias VINCENT
KIGEN.....ACCUSED**

JUDGMENT

- 1.** The Accused, **Vincent Kipkirui**, also known as **Vincent Kigen**, faces a charge of murder, contrary to **Section 203** as read with **Section 204** of the **Penal Code**. It is alleged that on the 30th October 2023 at Kaiboi - Nandi North within Nandi County he murdered **Dennis Kipchirchir** [deceased].
- 2.** The case for the prosecution was founded on the facts that both the Accused and the deceased were college mates and friends at the Kaiboi National Polytechnic and on the material date at about 9:00pm they were together in the room or house of the deceased situated within the Kaiboi shopping

Centre while in the company of fellow students including **Marion Chepkemboi [PW1]** and **Brian Langat [PW4]**.

3. The group of four apparently deliberated over the relationship between the deceased and **Marion [PW1]** who was said to be a girlfriend of the Accused, but in a similar relationship with the deceased. In the process, a physical confrontation occurred between the accused and the deceased leading to the deceased sustaining a fatal injury resulting from a stab wound occasioned to him with a sharp object said to be a knife by the Accused.

4. Thereafter, the Accused asked **Brian [PW4]** to go away even as he [accused] left the room. He returned shortly thereafter and forced **Marion [PW1]** to accompany him to his house where she stayed upto the following morning when she left to seek treatment at a hospital as she was also attacked and injured by the Accused.

In the meantime, Brian [PW4] alerted fellow students on what had transpired in the house of the deceased. **Victor Kiptoo [PW3]** and **Ronald Kiptoo Bett [PW6]** were among those students. They accompanied **Brian [PW4]** back to the house of the deceased and found it in darkness. They alerted the deceased neighbours who included **Abiud Kiptoo [PW2]** and **Robinson Kamau Kariuki [PW5]**.

5. The two **[PW2** and **PW5]** while in the company of other students proceeded to the house of the deceased. They found the door wide open and the light put off. They ventured into the house and found the deceased lying on a bed with his legs stretched to the floor/ground. They noted blood stains on the bed and notified the police as well as their dean of students. The dean arrived at the scene and confirmed that the deceased was already dead.

6. A post mortem was later conducted on the body of the deceased at the Kapsabet Referral Hospital by **Dr. Evans Kibiwott [PW7]**, who compiled and signed the post mortem report **[P. Exhibit 1]** showing that the cause of death was acute blood loss due to penetrating injury to the chest cavity injuring the aorta.

7. The police investigated the matter after receiving the necessary report on the midnight of the material date. They proceeded to the scene and found a crowd of onlookers at the deceased's rental room. They entered the room and found the deceased lying across a bed in a pool of blood. She was already dead. A penetrating stab wound on the left side of the chest cavity was visible.
The police then removed the body of the deceased to the mortuary at Kapsabet.

8. The police investigations determined that the Accused and the deceased quarreled over a girlfriend and in the process the deceased was stabbed on his chest with a sharp object by the Accused. A knife was the suspected weapon used in the assault which proved fatal.

The scene of the offence was sketched and a sketch plan [**P. Exhibit 2**] drawn by the investigations officer, **PC Peter Kamau [PW8]** of the Directorate of Criminal Investigations [DCI] Nandi-North.

9. The Accused was charged with the present offence after completion of police investigations. His defence was essentially a denial and a contention that he did not commit the offence. He indicated that he arrived at the house of the deceased and questioned him on his relationship with their female colleague [**PW1**] who was said to be a girlfriend to both the Accused and the deceased.

10. Prior to receiving a respond from the deceased, the lights inside the house went off and a commotion erupted thereby leading to the Accused being hit on his right ear and knees by an unknown person. The Accused struggled to get out of the house even though he could not see properly due to the ear injury. He shortly thereafter returned into the house to fetch the female colleague [**PW1**] as she had

called for him and pleading not to be left at the scene. The two then went to the Accused's house.

11. The Accused contended further that he had no knife and did not use any knife. He said that since he had come from a mathematics discussion with the deceased **Brian [PW4]** and others when they proceeded to the house of the deceased the only thing which was in his possession was a calculator.

He maintained that he did not stab and kill the deceased and it was only on the following day that he learnt from **Brian [PW4]** that things were not good. He was at his home when he was arrested by the police.

12. The offence of murder is committed when a person of malice aforethought causes the death of another by means of unlawful act.

What therefore emerged as the main issue for determination in this matter was whether the death of the deceased was as a result of an unlawful act of assault committed against him and if so, whether the offending assailant was the Accused.

13. The evidence by prosecution witnesses who were at the scene at the material time i.e. **Marion [PW1]** and **Brian [PW2]** and those who arrived at the scene after the fact i.e. **Kiptoo Abiud [PW2], Kiptoo Victor [PW3], Kariuki**

Robinson [PW5] and **Bett Ronald [PW6]** confirmed that the deceased met his death after he was fatally assaulted with a sharp object which was apparently not recovered.

These witnesses established that the deceased was actually stabbed with a sharp object.

14. Marion [PW1] and **Brian [PW4]** were present when the incident occurred. They indicated that the deceased was stabbed on the chest with the sharp object while engaged in a fight or physical confrontation with the Accused occasioned by a suspected love triangle involving the deceased, the Accused and **Marion [PW1]**. As it were, **Marion [PW1]** was the “*agent provocateur*” of the physical confrontation with tragic consequences.

15. Indeed, there was no dispute from the defence that the deceased was fatally assaulted in the course of the unlawful confrontation or fight between himself and the Accused. However, the Accused vehemently denied being the person responsible for fatally stabbing the deceased. He thus implied that the deceased was stabbed by somebody else, that he [Accused] was without good cause implicated with the offence by **Marion [PW1]** and **Brian [PW2]**.

16. Despite the denial and the aspersion cast by the Accused upon **Marion [PW1]** and **Brian [PW2]**, it was

apparent that the deceased was assaulted by the Accused with whom the deceased engaged in the violent confrontation. The Accused could not therefore be heard to deny being the person responsible for assaulting the deceased and causing him fatal injury. However, the evidence suggested quite clearly that the Accused did not have the actual intention to cause the death of the deceased. His mistake which brought him into conflict with the law was to use unreasonable and excessive force against the deceased.

17. Both the Accused and the deceased with their raw youthful energy acted recklessly and foolishly when they engaged in a physical confrontation or fight over a damsel in the person of **Marion [PW1]** whom they each craved for her love.

In essence, rather than the offence of murder, the prosecution established and proved beyond doubt the offence of manslaughter against the Accused.

18. Accordingly, this court must and hereby finds the Accused guilty of manslaughter, **Contrary to Section 202[1]** of the **Penal Code** and convicts him. It was sad that he took away the life of his friend and college mate out of sheer jealousy and sense of defeat by the deceased. He

allowed his emotions get a hold of him and wrestle good judgment away from him.

Dated and Delivered this 18th day of February 2026

**HON. J. R. KARANJAH,
JUDGE**