



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYANDARUA
CRIMINAL CASE NO. 1 OF 2023

REPUBLIC.....PROSECUTOR

VERSUS

LEAH WANJIKU NDEGWA..... ACCUSED

JUDGMENT

1. Leah Wanjiku Ndegwa is charged with an offence of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars of the offence are that on the 31st day of August 2021, at Jua Kali trading Centre, in Mirangine Sub-County of Nyandarua County, she murdered Stephen Njuguna Kimani.
3. The deceased and the accused were leaving Hillos bar at about 9 p.m. The prosecution contends that it was the accused who inflicted the fatal blows.
4. The accused, in her defence, argued that the deceased accidentally fell on his own.
5. The issues to be determined are:
 - a) Whether the injuries that the deceased succumbed to were as a result of an accidental fall or whether the accused caused them; and
 - b) Whether the offence of murder was established against the accused.
6. IP Geoffrey Ntabo (PW8) testified that during their investigation, they discovered the deceased had taken a sip of the accused's alcohol. The accused became irritated and struck him on the head with a bottle. She then ordered him to leave and pushed him out of the bar. The accused continued to beat him outside. This was a witness who was at the scene.
7. The witnesses present at the scene were Jane Wandia Wahinga (PW1) and her sister Shamin Jasmine Wandia (PW2). Their testimonies conflicted with PW8's. They stated that the accused and the deceased had been drinking together and left the bar simultaneously. They

did not mention any argument or fight between the two during their time at the bar. The Court of Appeal, in the case of **Ndungu Kimanyi vs Republic [1979] KLR 283 (Madan, Miller, and Potter JJA)**, concluded:

The witness in a criminal case upon whose evidence it is proposed to rely should not create an impression in the mind of the court that he is not a straightforward person, or raise a suspicion about his trustworthiness, or do (or say) something which indicates that he is a person of doubtful integrity, and therefore an unreliable witness which makes it unsafe to accept his evidence.

8. Because the witnesses provided him with information that is considered inadmissible hearsay, his testimony cannot be trusted.
9. Leah Wanjiku Ndegwa, the accused, claimed the deceased fell outside the bar. This was supported by the testimonies of PW1 and PW2. The post-mortem report indicated that the injuries on the deceased were on the front of the body, supporting the accused's explanation.
10. The accused was charged based on her conduct after the fact that raised suspicion. The Court of Appeal in the case of **Sawe vs Republic [2003] KLR 354**, held as follows:

Suspicion, however strong, cannot provide the basis of inferring guilt, which must be proved by evidence beyond a reasonable doubt.

11. Since there is no additional evidence against her, I conclude that the charge of murder has not been proven. Therefore, she is acquitted.

Delivered and signed at Nyandarua, this 20th day of April 2026

**KIARIE WAWERU KIARIE
JUDGE**