



Case Number:	Criminal Appeal 384 & 385 of 1993
Date Delivered:	21 Feb 1995
Case Class:	Criminal
Court:	High Court at Nyeri
Case Action:	Judgment
Judge:	Mary Atieno Ang'awa
Citation:	Faith Wachera Mwangi & another v Republic [1995] eKLR
Advocates:	-
Case Summary:	<p>Mwangi & Another v Republic</p> <p>High Court, at Nyeri</p> <p>February 21, 1995</p> <p>Ang'awa, J</p> <p>Criminal Appeal No 384 and 385 of 1993</p> <p><i>Evidence - circumstantial evidence – where circumstantial evidence points to guilt of accused – where accused admit to killing in statement under caution – whether this is sufficient evidence to convict one of crime.</i></p> <p>Summary of The Facts</p> <p>The appellants were charged with offence of murder which was later committed to manslaughter and sentenced to 5 years imprisonment. No eye witness saw the incident but the appellants admitted to have had a fight with deceased in their statement under caution.</p> <p>On conviction and sentence however both accused appealed against their conviction and</p>

	<p>sentence.</p> <p>Held:</p> <ol style="list-style-type: none"> 1. No eye witness saw the incident but there was circumstantial evidence namely a sketch plan which showed the body having been found of the scene places. 2. The appellants did not question statements under charge 4 caution in which they admitted to have had a fight with the deceased which caused his death. 3. The circumstantial evidence given indicate that a fight occurred in which as a result the appellants attacked them father but not with the intention to kill him. <p><i>Appeal against conviction dismissed.</i></p>
Court Division:	Criminal
History Magistrates:	-
County:	Nyeri
Docket Number:	-
History Docket Number:	-
Case Outcome:	Appeal against conviction dismissed.
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
<p>The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.</p>	

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL APPEAL NO 384 AND 385 OF 1993

FAITH WACHERA MWANGIAPPELLANT

EUNICE MUGETHI MWANGIAPPELLANT

VERSUS

REPUBLIC.....RESPONDENT

JUDGMENT

The two appellants were originally charged with another not before this court with the offence of murder. This was later computed to one of manslaughter. Original accused No 1 was placed on probation accused 2 & 3 were both sentenced to 5 years imprisonment. The two now appeal against conviction and sentence.

This court finds from the records of the lower court the following evidence. P.W.1 is a chief who found the 3 original accused seated in his home. They made a report of him of fight with the deceased. She went to the scene and saw no one save the deceased lying dead. She wet and called the other witnesses in this case – presumably P.W.4 (as the trial magistrate made no identification during the trial of the witnesses by the witness in the witness box) and P.W.3 the husband to P.W.2. P.W.3 also learnt of the incident from the chief. P.c (recorded in the proceedings as P.W.5 – probably in error) took the charge and cautionary statement. Proof by the prosecution must be beyond any reasonable doubt.

In this case no eye witness saw the incident. There was circumstantial evidence namely a sketch plan which shows the body having been found at the scene places. Evidence was led as to this there was a doctor to testify that the deceased did die, that the cause of death had been stipulated as deep cuts in the head and broken arms.

P.W.5 a police officer attached to the CID Murang'a had charged and cautioned the two appellants. The appellants did not question the statement or make any objections hereon. It is on the basis of these statements were the two appellants admitted to have had a fight with the deceased which caused his death

The death herein notes that the circumstantial evidence and confession given indicate that a fight occurred in which as a result the appellants attacked their father but not with the intention to kill him. One could not say it was as self-defense or provocation – none of this having been pleaded by the defence.

This court herein dismiss this appeal on conviction as to sentence, this court would not interfere with it.

Dated and delivered at Nyeri this 21st day of February, 1995

M.A. ANG'AWA

JUDGE



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)