



REPUBLIC OF KENYA



**Republic v Mugure & 2 others (Criminal Case 15 of 2018)
[2024] KEHC 9793 (KLR) (30 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9793 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
CRIMINAL CASE 15 OF 2018
DKN MAGARE, J
JULY 30, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

ELIUD KANUMBI MUGURE 1ST ACCUSED

PATRICK NGATUNYI GATUNDU 2ND ACCUSED

DUNCAN NDEGWA MUKIRA 3RD ACCUSED

RULING

1. The Accused persons were jointly charged with murder contrary to section 203 as read with 204 of the *Penal Code*.
2. The particulars of the offence were that Eliud Kanumbi Mugure, Patrick Ngatunyi Gatundu and Duncan Ndegwa Mukira on the night of 13th and 14th October 2018 along Njigari – Gitugi Road at Njigari village within Mathira West Subcounty in Nyeri County jointly murdered Eric Nguri Gikunju
3. The accused person took plea and denied the charge. The plea of not guilty was recorded.
4. The hearing commenced and the prosecution called a total of 9 witnesses. Their evidence was recorded and exhibits produced.
5. I have perused the court file, and exhibits, where the 9 witnesses testified. I have also perused the submissions filed both by the Prosecutions in support of a finding on the *prima facie* case. The defence did not file submissions in opposition to the *prima facie* case. As articulated by Sir Newham Worley P. in the case of *Ramanlal T. Bhatt Vs. R.*(1957) E.A. 332

“... the court is not required at this stage to decide finally whether the evidence is worthy of credit, or whether if believed it is weighty enough to prove the case conclusively: that final



determination can only properly be made when the case for the defence has been heard. It may not be easy to define what is meant by a “prima facie case” but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.”

6. Consequently, I am satisfied that the prosecution has established a prima facie evidence to enable the Court to call the accused to defend themselves. I consider the evidence on record sufficient to call upon the accused to defend themselves. I therefore find that the accused have a case to answer. I put the accused persons on their defence in accordance with Section 306 of the [Criminal Procedure Code](#).

DELIVERED, DATED AND SIGNED IN OPEN COURT AT NYERI ON THIS 30TH DAY OF JULY, 2024.

KIZITO MAGARE

JUDGE

In the presence of: -

Ms. Kaniu for State

Mr. Kimunya for 1st Accused

Mr. Njuguna Kimani for Gathiga Mwangi for the 2nd Accused

Mr. Ndirangu for 3rd Accused

Accused – present

Court Assistant – Jedidah

