



**Republic v Mogi & another (Criminal Case 63 of 2016)
[2023] KEHC 461 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 461 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 63 OF 2016
EM MURIITHI, J
JANUARY 30, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

PAUL MICHUBU MOGI 1ST ACCUSED

SIMON M'MWETI 2ND ACCUSED

RULING

1. The accused persons are charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence were that the two named accused persons “on the August 21, 2016 at Riige location in Igembe South Sub-location within Meru County, jointly murdered Philip Kiramari.”
2. The accused persons pleaded not guilty to the charge and the matter proceeded to trial, the prosecution calling 8 witnesses to prove the charge.
3. As required under section 306 of the *Criminal Procedure Code*, the court has considered whether there is the evidence that the accused person committed the offence, with the guidance of the relevant case law and materials on the question in *Ramanlal T Bhatt v R* (1957) EA 332, 335, *Murimi v R* (1967) EA 542, *Wachira v R* (1975) EA 262, *Kibera Karimi v R* (1979) KLR 36, *Festo Wandera Mukando v R* (1976 – 80) KLR 1626, *Antony Njue Njeru v R*, Nairobi CA Cr Appeal No 77 of 2006 and the *Kenya Judiciary Criminal Procedure Benchbook*, 2018 at 99-100.
4. The court considers that there is the evidence that the accused persons committed the offence, having regard to the elements of the offence of murder.



ORDERS

5. Consequently, the accused persons shall be put on their defence in accordance with section 306 (2) of the *Criminal Procedure Code*, and their rights thereunder shall be explained.

Order accordingly.

DATED AND DELIVERED ON THIS 30TH DAY OF JANUARY, 2023.

EDWARD M. MURIITHI

JUDGE

Appearances

Ms B. Nandwa Prosecution Counsel for the DPP.

Mr. Wamache, Advocate for the 1st Accused.

Mr. Ng'entu, Advocate for the 2nd Accused.

