



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Nyambura (Criminal Case 54 of 2018)
[2023] KEHC 1343 (KLR) (27 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 1343 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 54 OF 2018
RB NGETICH, J
FEBRUARY 27, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

EUNICE NYAMBURA ALIAS WAITHERA ACCUSED

RULING

1. The accused herein Eunice Nyambura Alias Waithera was charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#).
2. Particulars are that on the night of 28th day of November 2018 at Kamae village in Kahawa West within Kiambu County, the accused murdered Francis Kamau.
3. On December 13, 2018, the charge and its full particulars were read over and explained to the accused. He pleaded not guilty to the charge and a plea of not guilty was entered.
4. On 4/7/2019, the prosecution availed two witnesses. PW1 Benson Shatuka testified that on November 27, 2018 at 9. 00p.m, he was making supper in his room when he heard commotion. He stepped out of his house and found the deceased Francis Kamau lying down behind his house, bleeding from the chest. He called for a vehicle to take him to hospital. He took him to Kahawa West Hospital where he was referred to Kiambu Level 4 Hospital. On arrival at Kiambu Level 4 Hospital, the deceased Francis Kamau was pronounced dead. He said the deceased had been his neighbour for two weeks.
5. On cross examination, PW1 said he did not find the accused at the spot the deceased was lying.
6. PW2, Samuel Gituku Kimaru testified that the deceased was his nephew. He said he received report from his mother that the deceased had been stabbed and was at Kiambu Hospital. He identified the body for postmortem.



7. The 3rd witness IP Rashid Adan testified on 4/10/2022. He testified that he arrested the accused and booked her at Kiamumbi Police Station. On cross examination, he said he played the role of arresting officer and that he arrested the accused on November 27, 2018.
8. No other witness was availed to court by the prosecution to adduce evidence despite several adjournments. Having been granted a last adjournment, the court declined to allow another adjournment on 4/10/2022.
9. On 5/10/2022, the state opted to enter a *nolle prosequere*. The defence counsel objected to *nolle prosequere* being entered. By ruling delivered on 23/2/2023, this court declined to permit entry of *nolle prosequere*. The prosecution opted to close their case.
10. From the evidence adduced by the 3 (three) prosecution witnesses, none of them connected the accused to the death of the deceased herein Francis Kamau.
11. No evidence was adduced as to the relationship between accused and deceased prior to deceased's death. There is also no evidence placing the accused at the scene of the incident herein. PW1 who testified as a neighbour of the deceased said when he went outside behind his house after hearing commotion, he found the deceased lying down. He further said he did not see accused at the scene.
12. There is no other evidence connecting/linking accused to the offence.
13. From the foregoing, I find that no *prima facie* case had been established to warrant accused be placed on her defence.

Final Orders: -

14. I hereby acquit accused under section 210 of the [Criminal Procedure Code](#).
15. Accused to be set at liberty unless lawfully held.
16. Right of appeal within fourteen (14) days.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KIAMBU THIS 27TH DAY OF FEBRUARY, 2023

RACHEL NGETICH

JUDGE

In the presence of:

Martin – Court Assistant

Ms. Kibebo for Accused

Ms. Ngesa for State

Accused – Present

