



**Republic v Kangethe (Criminal Case 9 of 2014)  
[2023] KEHC 21797 (KLR) (30 August 2023) (Ruling)**

Neutral citation: [2023] KEHC 21797 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MURANG'A  
CRIMINAL CASE 9 OF 2014  
J WAKIAGA, J  
AUGUST 30, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DAVID MUNGAI KANGETHE ..... ACCUSED**

**RULING**

1. The Accused was charged with the Offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of which were that on the January 21, 2014 at Kihumbu-ini Gatanga District in Muranga County, murdered Daniel Ngochi Kahui.
2. He pleaded not guilty to the charges and to prove its case the prosecution called and examined a total of six witnesses.
3. For record purposes the trial commenced before Ngaah J who recorded the evidence of four prosecution witnesses and Kimondo J who recorded the evidence of one prosecution witness (PW5) and upon compliance with the provisions of Section 200 of the Criminal Procedure Code, I recorded the evidence of PW6 upon which the prosecution closed its case upon being unable to secure the attendance of other witnesses.
4. At the close of the prosecution case the defence opted not to make any submission on whether the prosecution had made up a case to enable the Court place the accused on his defence hence this Ruling.
5. At this stage of the proceeding all that the court is required to do is to establish if the prosecution has established a prima facie case, that is to say the case is established to the extent that the Court will be willing to convict the accused should he in the exercise of his rights under the Constitution to remain silent, the Court exercising its mind will be willing to convict him on the evidence on record as was stated in the Case of Bhatt v Republic and as applied by the Courts in Kenya thereafter .



6. Having looked at the evidence of PW1 who was with the accused and the deceased as corroborated by PW2 and PW3 which established that the death of the deceased was un-natural and without saying much thereon so as not to compromise the defence the accused is likely to offer, I am satisfied that a case has been made to enable me put the Accused on his defence which I hereby do under the Provisions of Section 306 of the Criminal Procedure Code. The same is hereby advised of his rights and through the advice of his Advocate on record called upon to choose how he intends to defend himself.
7. And it is ordered.

**DATED SIGNED AND DELIVERD AT MURANGA THIS 30<sup>th</sup> DAY OF AUGUST 2023**

**J. WAKIAGA**

**JUDGE**

In the presence of:

Ms Gakumu for State

Mr Nandwa for Bwononga for Accused

Susan – Court Assistant

