



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kiti & 2 others (Criminal Case 5 of 2017)
[2023] KEHC 26005 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEHC 26005 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE 5 OF 2017
DKN MAGARE, J
NOVEMBER 23, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

KITI NGOMBO TINGA 1ST ACCUSED

CHILANGO KALAMA KITI 2ND ACCUSED

ZIRO LEWA NDUGO 3RD ACCUSED

RULING

1. The two Chilango Kalama Kiti, Kiti Ngombo Tinga and Ziwa Lewa Ndugo were charged that on the night of 22/23/1/2017 at Gambini Village Chonyi Division within Kilifi County murdered Daniel Nzai Kombe.
2. This matter proceeded before Justice Njoki Mwangi. On 3/11/2023 she returned the file that she can no longer proceed. The Presiding Judge assigned me the file on 9/11/2023. I fixed the mater for directions on 23/11/2023.
3. On 23/11/2023 parties took direction under section 200 of the *Criminal P Procedure Code* to proceed from where the mater had reached. I have perused the court file, and exhibits, where 15 witnesses testified. I am satisfied that the prosecution has prima facie evidence to enable the court to call the Accused to defend themselves. I consider the evidence on record sufficient to call upon Accused 1, 2 and 3 to defend themselves. I therefore find the accused have a case to answer. I put all the 3 Accused person on their defence in according to section 306 of the *Criminal Procedure Code*.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT MOMBASA ON THIS 23RD DAY OF NOVEMBER, 2023.

KIZITO MAGARE



JUDGE

In the presence of: -

Mr. Were for Lijoodi for the Accused persons

Ms Anyumba for Ms Nyawinda

Sgt. Fredrick Wale

***All Accused present**

Court Assistant – Brian

M.D. KIZITO, J.

