



REPUBLIC OF KENYA



**Republic v Kariuki (Criminal Case 13 of 2020)
[2023] KEHC 27330 (KLR) (18 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 27330 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL CASE 13 OF 2020
SN MUTUKU, J
DECEMBER 18, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL KARIUKI ACCUSED

RULING

1. Samuel Kariuki, the accused herein, is charged with murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of this offence are that on 28th June 2020 at Kiserian Township in Kajiado North Sub-County within Kajiado County he murdered Alex Kiarie Njoroge.
2. The accused denied committing this offence when the charge was read to him on July 17, 2020.
3. The prosecution called a total of nine (9) witnesses. Three (3) of those witnesses testified before Hon. Mr. Justice Mwita and the remaining before me. I have read all the evidence recorded in this matter with a view to determining whether it makes out a case against the accused person to require him to testify in his defence.
4. The facts of the case show that the deceased was found inside the store of the accused and hit on the head with an axe as he was trying to get out. He died later while undergoing treatment in hospital.
5. I took the evidence of Daniel Ng'ang'a Wanjiru (PW3) is that on June 28, 2020 he was called by the accused to go to his (accused) home. The accused informed him that there was a thief inside his house; that he peeped through a hole and saw someone inside accused's house; the person was asked what he was doing inside but he did not answer; that the person was told to get out; that the person tried to get out, but the accused hit the person with an axe on his head.
6. I have noted from the evidence of the pathologist that the deceased died as a result of head injury consistent with blunt force trauma.



7. I directed parties to file submissions after the conclusion of the prosecution case. The accused, through his defence counsel, filed submissions but the prosecution has not filed any submission. Counsel for the accused has submitted that the evidence adduced is at variance with the particulars of the charge sheet; that the evidence is inconsistent; that the documentary evidence did not attain evidentiary standard and was of no value; that there is discordant testimonies from witnesses; that the prosecution failed to call material witnesses and that the investigations are wanting.
8. I have considered these issues and I have satisfied myself that the evidence tendered establishes a prima facie case against the accused to warrant him to be placed in his defence. I have satisfied myself that the evidence tendered has implicated the accused, and consequently, it is my finding that the accused has a case to answer. In view of section 306(2) of the *Criminal Procedure Code*, I hereby place the accused in his defence. He is notified of his right to give evidence in his defence either sworn defence or unsworn and to call witnesses to testify in his defence.
9. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 18TH DECEMBER 2023.

S. N. MUTUKU

JUDGE

