



**Republic v Miano (Criminal Case 76 of 2019)
[2025] KEHC 171 (KLR) (Crim) (20 January 2025) (Ruling)**

Neutral citation: [2025] KEHC 171 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE 76 OF 2019
K KIMONDO, J
JANUARY 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

BETH ROSE KARONA MIANO ALIAS MUTHONI ACCUSED

RULING

1. The accused person is charged with murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars are that on 10th October 2019 at Matopeni area of Githogoro slums within Nairobi County, jointly with others not before court, she murdered David Ngugi Mwaura.
3. She pleaded not guilty. The prosecution closed its case after the testimony of nine witnesses. Seven of them appeared before my predecessor, Ogembo J. On 16th October 2023, and, pursuant to section 200 (3) of the Criminal Procedure Code, the accused elected to proceed from where the matter had reached.
4. Learned Prosecution Counsel lodged submissions dated 15th May 2024. Their pith is that on the totality of the above evidence, the State has established a prima facie case against the accused.
5. Learned counsel for the accused filed detailed submissions dated 20th October 2024. In his view, the accused was not at the scene of the crime; and, the entire case is built atop mere suspicions. Accordingly, “there is no tangible and concrete evidence to remove the issues from the realm of suspicion into that of proven facts”.
6. In a nutshell, the defence contends that the prosecution has not laid any foundation to require a rebuttal from the accused. Reliance was made on a number of precedents including, Republic v Simon Kagiri, High Court, Kerugoya, Criminal Case 9 of 2015 [2019] eKLR; Limbabula v Republic, Kisumu



Court of Appeal, Criminal Appeal 140 of 2003 [2003] eKLR; and, Wangombe v Republic [1980] KLR 424.

7. I have paid heed to the evidence of some of the witnesses. When P.C. Kevin Bwire (PW6) went to the scene (a small one roomed bar measuring approximately 15 x 10 feet), and where the deceased's body was hanging by a lesso, he doubted that it was a suicide. For instance, the witness theorized, the deceased's feet were supported by a plastic chair and not hanging freely.
8. Upon further enquiry, PW6 was told that the accused was in a neighbouring bar. When she was brought to the scene, she said she was serving three men, including the deceased and that when she returned with their order of drinks, she found the deceased's body hanging. The other two men were nowhere to be seen.
9. From the evidence of Elizabeth Njeri (PW3), the accused was her sole employee at the bar. She had picked keys to the bar at noon. In cross-examination, she said the deceased was a regular customer. After the incident, she got in touch with the accused who "was very drunk and could not tell [her] anything".
10. I have also taken into account the evidence of P.C. David Otieno (PW5) who was the scene of crimes officer and that of the pathologist, Dr Peter Ndegwa (PW8). In the latter's opinion, the cause of death was "head injuries due to blunt force trauma with secondary hanging".
11. The prosecution's case is thus largely built around circumstantial evidence. But upon the digest of the evidence of all the nine witnesses; and, cognizant of the precedents in *Bhatt v Republic* [1957] E.A. 332 and *R v Kipkering arap Koske & another* 16 EACA 135 (1949), I find that the Republic has established a prima facie case calling for a rebuttal from the accused person.
12. Accordingly, under the provisions of section 306 (2) of the Criminal Procedure Code, I hereby place the accused person on her defence.

It is so ordered.

DATED, SIGNED AND DELIVERED THIS 20TH DAY OF JANUARY 2025.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of: -

The accused.

Mr. Ayuo for the accused instructed by David Ayuo Advocates LL.P.

Ms. Kigira for the Republic instructed by the office of the Director of Public prosecutions.

Mr. E. Ombuna, Court Assistant.

