



**Republic v Njeri (Criminal Case 51 of 2019)  
[2025] KEHC 3084 (KLR) (Crim) (18 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3084 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CRIMINAL  
CRIMINAL CASE 51 OF 2019  
K KIMONDO, J  
MARCH 18, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DANIEL GITHINJI NJERI ..... ACCUSED**

**RULING**

1. The accused is charged with murder contrary to section 203 as read with section 204 of the *Penal Code*.
2. The Director of Public Prosecutions informs the High Court that on the 24<sup>th</sup> December 2017 in Zimmerman Estate within Nairobi County, with others not before the court, he murdered Joseph Ng'ethe Kiarie.
3. He pleaded not guilty. The prosecution lined up six witnesses. One of them appeared before my predecessor, Chepkwony J. On 24<sup>th</sup> November 2022, and, pursuant to section 200 (3) of the *Criminal Procedure Code*, the accused elected to proceed from where the matter had reached.
4. I am now called upon to determine whether the accused has a case to answer.
5. Learned counsel for the defence, Mr. Omenke, filed brief submissions dated 10<sup>th</sup> February 2025. The Republic equally lodged submissions dated 29<sup>th</sup> January 2025.
6. Learned counsel submitted that the evidence does not meet the required standard of proof; and, accordingly, the accused should be acquitted. Reliance was made on the decisions in *Bhatt v Republic* [1957] E.A. 332, *Republic v Abdi Ibrahim Owl*, Garissa High Court Criminal Case 6 of 2011 [2013] eKLR and *May v O'Sullivan* (1955) 92 CLR 654.



7. But according to learned counsel for the Republic, Ms. Kigira, there is overwhelming evidence connecting the accused to the homicide; and, the accused should put forth a rebuttal.
8. My finding is as follows. It bears repeating that the accused is still deemed innocent at this stage. Furthermore, the inquiry at this juncture is merely to establish if a prima facie case has been made out requiring a rebuttal from the accused.
9. According to Edward Gichuhi (PW4), he was driving a matatu towards Zimmerman, Registration No. KAS 899E. At Tanners stage, he witnessed an accident involving a matatu and a personal car. The personal car had damage on its bumper and lights. The matatu was emblazoned Mariba Investment. He said the driver of the salon car was being “beaten by the matatu operators – around 4 men”. In cross examination, he stated that the accused was one of the assailants and that when he tried to intervene, the group “stomped on [him] when [he] fell into the ditch”.
10. There is then the evidence of Kipkosgei Kimutai (PW3). He was driving an ambulance GKA 339U along the stretch of the road. Members of the public requested him to ferry the driver of the saloon car to hospital. He took the deceased to Kasarani Uhai Neema Hospital. He said that the patient was received by medical personnel but was pronounced dead shortly thereafter.
11. According to Bernard Mwanzia (PW2), he was the proprietor of matatu registration number KCF 793Z operating under a Sacco styled Mariba Investment. He testified that the accused was a conductor on the vehicle.
12. The death of the deceased is no longer in doubt. His older brother, Peter Kamande Kiarie (PW1) identified the body for postmortem purposes at Kenyatta University Hospital Mortuary on 27<sup>th</sup> December 2017.
13. On 3<sup>rd</sup> October 2024, the postmortem report made by Dr. Johansen Oduor was admitted into evidence by consent and without calling the maker (exhibit 6). According to it, the cause of death was “head injury due to blunt trauma”.
14. Applying the precedents in *Bhatt v Republic* [1957] E.A. 332 and *R v Kipkering arap Koske & another* 16 EACA 135 (1949); and, upon the digest of the evidence of all the six prosecution witnesses and documentary evidence, I find that the Republic has established a prima facie case against the accused.
15. Accordingly, under the provisions of section 306 (2) of the *Criminal Procedure Code*, I now place the accused on his defence.

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 18<sup>TH</sup> DAY OF MARCH 2025.**

**KANYI KIMONDO**

**JUDGE**

Ruling read virtually on Microsoft Teams in the presence of-

Accused.

Ms. Maina for the Republic instructed by the Office of the Director of Public Prosecutions.

Mr. Njogu for the accused instructed by Omenke Adeje & Company Advocates.

Mr. E. Ombuna, Court Assistant.

