



Republic v Muia (Criminal Case 19 of 2018) [2025] KEHC 6426 (KLR) (22 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6426 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL CASE 19 OF 2018**

EN MAINA, J

MAY 22, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

SIMON MUTISYA MUIA ACCUSED

RULING

1. The Accused person was charged with murder contrary to Section 203 as read with Section 204 of the *Penal Code*. It is alleged that on the night of 13th and 14th July, 2018 at Sun Blaze Bar in Athi River the accused murdered Christopher Wambua alias Mela.
2. The accused pleaded not guilty to the charge whereupon the prosecution called eight (8) witnesses in an effort to prove its case. The sum total of their evidence was that the accused person was the last person to be seen with the deceased. PW2, (a waitress in the bar) who worked with the accused who was a security guard at the bar, testified that when she left at about 1.00 a.m. she left the accused and the deceased drinking. PW2, PW3 and PW4 who were patrons of the bar testified that they went in the bar on the material day. They all confirmed that the deceased was with the accused and that they left both of them there when they left. The next day they learnt that the deceased had been found dead in a field behind the premises of the bar. PW1, PW2, PW3 and PW4 all testified that they had no knowledge of the cause of his death. PW2 testified that when she reported to the bar for work the next morning, she was confronted by a crowd which was baying for her blood. She fled and reported the matter to Athi River Police Station.
3. Investigations in the case were conducted by PW5 and PW6 both police officers attached to Athi River Police station. It was their evidence that when they received word concerning the incident they proceeded to the scene where the body was found and processed it. After that they went to the bar and on finding blood on the floor and on the lid of a bucket that was there, they concluded that that must have been the primary scene of the crime. They then gathered information to the effect that the accused was the last person to be seen with the deceased in the bar and started looking for him. They



- visited his house on 14th July 2018 and upon conducting a search they found a bloodstained pair of shoes which they carried with them. On that day the accused was not in the house but they arrested him on their next visit which was on 21st July 2018. They took him into their custody and carried with them the clothes he was wearing on that day. Those clothes, the blood-stained shoes, the bucket and its lid were taken to the Government Chemist for analysis. Meanwhile a post mortem had been conducted on the body of the deceased and a blood sample taken. That blood sample was taken to the Government Chemist alongside the other items. A sample of the accused's blood was also taken. PW6 testified that there was a trail of blood all the way from the bar to the place where the body was found.
4. Elizabeth Waithera Onyiego (PW8) a government analyst since 1993 testified that the task of examining the exhibits in this case fell on her. The items were received at the government chemist in Nairobi on 24th July 2018. She conducted the examination which according to her revealed that the bucket and bucket lid were slightly stained with human blood and that the pair of shoes (those found in the accused's house) were also stained with human blood and further that the blood on those shoes belonged to the deceased. The blood stains on the bucket lid and mopper did not however generate a DNA profile.
 5. The court also heard testimony from the Pathologist (PW7) who performed a post mortem on the body of the deceased on 19th July 2018. According to the report the deceased had multiple stab wounds more specifically six stab wounds on the neck – 3 on the left side and 3 on the right side. He also had an abrasion on the left side of the stomach and he had lost a lot of blood and the opinion formed was that the cause of death was excessive loss of blood and multiple stab wounds on the cervical neck.
 6. The items that were gathered in connection with the case, the Analyst's Report and the Post Mortem report were all tendered in evidence and as exhibit P1-4.
 7. At the close of the prosecution's case this court received written submissions as to whether or not a prima facie case had been established to warrant the accused person to be put on his defence from the prosecution and the defence. The prosecution Counsel asserted that a prima facie case had been sufficiently established and the accused should be put on his defence but Ms Kwamboka learned Counsel for the accused, submitted that the prosecution had not proved its case beyond reasonable doubt as to warrant this court to put the accused on his defence.
 8. At this juncture the court is not required to consider whether or not the prosecution has proved its case beyond reasonable doubt but only whether there is a prima facie case to warrant the accused to be put on his defence, a prima facie case being one where a reasonable tribunal properly directing its mind would convict the accused even were he to remain silent. (See the case of *Bhatt v Republic* [1957] EA 332 where the court held: -
 - “(i) The onus is on the prosecution to prove its case beyond reasonable doubt and a prima facie case is not made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.
 - ii. The question whether there is a case to answer cannot depend only on whether there is ‘some evidence irrespective of its credibility or weight, sufficient to put the accused on his defence. A mere scintilla of evidence can never be enough; nor can any amount of worthless discredited evidence.’”
 9. I have carefully considered the evidence adduced by the prosecution and the submissions by both sides. My finding is that the prosecution has established a prima facie case against the accused person sufficiently to warrant him to be put on his defence. He shall therefore be required to enter his defence.



It is so ordered.

RULING SIGNED, DATED AND DELIVERED VIRTUALLY ON THIS 22ND DAY OF MAY, 2025.

E. N. MAINA

JUDGE

In the presence of:

Ms Kaburu for the state

Ms Kwamboka for the accused

The accused person

Geoffrey – Court Assistant

