



REPUBLIC OF KENYA



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**Republic v Mugo (Criminal Case 25 of 2014)
[2025] KEHC 8195 (KLR) (12 June 2025) (Judgment)**

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**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA
CRIMINAL CASE 25 OF 2014**

**EM MURIITHI, J
JUNE 12, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

JULIUS KAREMI MUGO ACCUSED

JUDGMENT

Introduction

1. The accused was on 18th November 2014 charged with murder contrary to section 203 as read with 204 of the penal Code with particulars that he "on the night of the 2nd and 3rd November 2014 at Kiangombe Village, Karumandi location in Kirinyaga East Sub County jointly with others not before the Court, unlawfully murdered Joseph Muthika Mbiti.
2. The Prosecution called seven (7) witnesses to prove the charge. When placed on his defence, the accused gave sworn evidence without calling any witness.

The Evidence for the prosecution

3. PW1 – Stephen Gichobi Nyaga testified that -

“I come from Karumande. I do welding. I knew the late Joseph Muthike Mbiti. He was a neighbour. Our parcels of land are adjacent. I know Julius Karemi Mugo. He was a casual worker at Rose’s home. She lives a distance away from us. I remember the night of 2/11/14 it was a Sunday. During the day we had gone drinking at Njoro’s place. We later went to Karumande into a pub with Njoroge at around 3 Pm. We stayed there until after 8.30 Pm. At around that time Karemi Mugo arrived with Macharia and sat at their own table. After a while Njoroge joined them, they were drinking kigwa and Njamba. At around 10.00 Pm, the owner of the pub told us to finish our drinks as he wanted to close up his business.



Joseph Muthike Mbiti was at the pub when we arrived at 3.00 Pm. He was seated with his brother called Felix. They were drinking on their own. So, when we were told to finish Muthike (deceased) left earlier than us. His brother (Felix) had left earlier. Karemi (accused), Njoroge and Macharia followed. I was left alone and I finished my drink which I did after 2 minutes. When I went out, I found Karemi pushing Muthike into a drainage full of water as it was raining heavily. I told Karemi to leave Muthike alone as he was my neighbour. When I told him that, he left Muthike and turned on me and pushed me into the ditch as well. I called out Njoroge to help as I was drunk. Njoroge did not come. He was standing by with Macharia. We were just outside the pub. I cried for help while on the ditch and Karemi left me. I stood up and started looking for sandals and my cap. I saw that Karemi was coming back for me and I took off and he came after me. He chased me for around 40 metres but he could not catch up with me. When he could not, he surrendered and I proceeded home as it was raining. Karemi went back to where Njoroge and the others were standing. By this time, Muthike had managed to crawl and was seated on the ground near the club.

The following day on 3rd as I was going for my welding job, I found many people on the road to Karumande where we had been the previous night. I found Muthike lying on the ground near a gate of a certain lady I have forgotten her name. He was covered with a pink sheet. There were around 20 people and they were saying that the person on the ground lying was Muthike. He was dead. It was around 500 metres from the pub at Karumande where we were drinking. It can take a person 5 minutes to walk from where the body was lying to the pub where we had been drinking the previous night.

When I saw this, I proceeded to Karumande where I met Susan – the lady who was working in the pub where we were drinking. I also met a friend (Gichohi). Susan asked me what had happened and I told her what had happened when we went out of her bar. I told her that I saw Karemi (accused) pushing Muthike (deceased) onto a ditch. Susan told me that we should go to the police so we went to Karumande Police. I was locked in and Karemi was brought in by police from Kianyaga. We were all taken to Kianyaga and we were asked what had happened. I told the police what had happened. I did not know what happened when I left Karemi and Muthike when I left the previous night. I do not know the relationship between Karemi and Muthike. Karemi is over there at the dock.

4. On cross examination by Muthike he said:

I had known the accused for about 3 years. We arrived at ‘comfort bar’ at Karumande at 3.00 Pm. We had taken Muratina prior to going to comfort pub. There were many people at the bar. People were coming and going as it is normal. The bar is big 20 patrons can be accommodated at the same time. When I arrived at 3.00 Pm there were about 15 people. I found Muthike taking kigwa Njamba. He was with his brother Felix. Felix went away at around 5.00 Pm. He left his brother. It was not raining at that time. Muthike remained alone but some patrons were seated in his table.

The accused came into the pub at around 8.00 Pm. I was drunk but I was able to control myself as I was aware of my surroundings. The accused did not sit with the deceased. The accused were with Macharia and they sat on their own table. I did not see any of them talk to Muthike (deceased). When the club was being closed, we were around 8-9 revelers inside the pub. The people were common faces in the town but I knew Njoroge, Karemi, Muthike and Macharia. The other people went but Njoroge, Karemi and Macharia stood outside. The bar was being managed by one person – Susan. She was the one who sold us beer. She closed the pub from inside and went out from the back door. She was a man who I knew



as Cos. They went away. There was security light outside the pub it was not dark. Karemi held Muthike and pushed him forcefully into a ditch. The water in the ditch was not so much. I was also pushed into the ditch by the accused. Muthike was seated on the ground. His clothes were wet. When I was thrown into the ditch, my sandals and cap fell. When he left me, I tried looking for my sandals and cap but when I saw Karemi coming back for me I ran away and he followed me for a while but I overran him. I went home and Karemi went back to where Njoroge and Muthike were.

The following day, when I saw many people and Muthike lying dead I was shocked. I was going to Karumande for work. I was going to pass by the ditch to try and get my sandals and cap. The accused did not hit me anywhere. He just threw me into the ditch. I know what I wrote in my statement. I had an injury on my forehead which was caused by pushing when Karemi pushed me into the ground, I hit a stone on the ground and I got injured. It is true I was drunk but I was able to tell what was going on.

I knew the accused person. It was my first time to find him in that pub. I went to the pub on my own. Susan told me that it was advisable to go and record a statement. I did not take my sandals as Muthike's shoes were also at the scene where we were pushed to the ditch. Muthike's shoes were on the ground near the pub. I did not see any blood at the scene. I was locked up when I went to police. I told the police that my sandals were at the scene. I did not see if there's any police officer went to my home to investigate. I recall there was an Identification parade at the police. I attended the Identification parade. There were many people around. 11 people at the parade. I did not know the people in the parade. I did not see Njoroge and Macharia on the parade. The person who was identifying us was Susan – the lady who was selling beer at the pub. I had not seen the accused and deceased together prior to that fateful night.

5. On Re-examination by Omayo, he said:

We are between 8-9 people who at the bar when it was closed. Outside the bar the road was headed upwards and downwards. Susan went upwards. I remained with Muthike, Karemi, Njoroge and Macharia. There is light outside the pub so I knew the people who were around me. I saw the accused push the deceased on the ditch. I saw him clearly because there was light. The police from Karumande told me not to take the sandals I had left at the scene. I do not know if the police from Kianyaga took them. I did not find the sandals again.

6. PW2- Paul Muchiri Mbiti testified that:

I am Paul Muchiri Mbiti. I come from Karumande. I am a farmer. I know Joseph Muthike Mbiti. He was my younger brother. I do not know Julius Karemi Mugo.

On 2/11/14 I was in Karumande Town. I left the town at 6.00 Pm and went home. I had earlier gone to church and had gone to Town at 4.00 Pm. I went to comfort bar at 5.00 Pm. I met my late brother there. Joseph Muthike was drinking alcohol alone I went into the pub and drank but I did not sit with him. I left the pub at 6.00 Pm. My brother was drinking when I left him.

The following day a neighbor Salina told me that he had seen the body of my brother at the roadside naked. I went there and found Sub Chief at the scene as he had arrived earlier. I confirmed that it was my brother Muthike. He had cuts on the face. He had bruises on the back maybe he had been dragged along the road. He did not have any clothes. He was naked. The Sub Chief told me to go and report at Kianyaga Police Station. I went and reported.



The police came with me to the scene. They took the body to Kibugi Funeral Home. I went back home to prepare for the funeral. I did not witness postmortem examination.

7. On Cross-examination by Muthike, he said:

I went to Comfort Bar at 5.00 Pm. There were other people at the club. There were many people at the bar. The bar was full. I did not count but they were about 20-30 people. I greeted my late brother and sat on another table I did not sit where he was. I greeted him by hand there were many people. I cannot recall who was sitting next to him. Felix is a brother to me. I did not see him at the club. I was out of the bar at 6.00 Pm. He could have been there but maybe I did not see him. There were many people. My brother was taking Cane. He was slightly drunk.

I found the body of my late brother lying near the gate of a lady called Cecily. He had cuts on the face. He appeared as if someone had pulled him along the road. It was raining season at the time.

He was naked. His clothes were later found scattered. His shoes were found outside the bar. The other clothes were found after 20 metres away and the trouser was found about 30 metres away from where the body was. The distance between the pub where I last saw my late brother and where his body was found is around 500 metres. I went to the bar where I was during the previous day. I saw my brother's shoes on the ground outside the bar. I saw shoes only. The shoes were muddy it was a raining season. My brother was a customer at Comfort Bar. I do not know the accused herein. I have just seen him today. I did not see him at the club.

8. On Re-examination by Omayo, he said:

The clothes of my late brother were scattered. It was a T-shirt and trousers. He had also had leather shoes. I can recognize the clothes and shoes if I see them. It was the same clothes I saw him in the previous day when we met at the bar.

9. PW3 - Cicily Waweru Njoka testified that:

- i. I knew Joseph Muthike (deceased). We went to the same church – Catholic Church. I do not know Julius Karemi Mugo (accused). I remember on 3/11/14 at around 7.00 am I was in my house. I found a crowd of people outside my gate and I went to check out. I saw a body of Muthike. The body was naked. There were many people around. He was totally naked. The body was lying next to my gate. I was shocked, I went to my garden. The body was done to the road. I knew Muthike (deceased) before. We used to be in the same church. Police later came.

10. On Cross-Examination she said:

- i. The body was next to my gate. My home was not far from the gate. I did not hear anything the previous night. I live alone. My husband died long ago. I did not observe the body clearly there were many people.

11. There was no re-examination.

12. PW4: Speranda Kathaa Muthira the deceased's wife testified that:

- i. I knew Muthike (dcd). He was my husband. I do not know Julius Karemi (Accused). I first saw him in court.



- ii. I got married to Joseph Muthike and we had been married for 20 years. I remember on 2/11/14 I was at home. I was with Muthike. It was a Sunday. He left at 9.00 am and from that day I have not seen him again. He did not tell me where he was going. He just left me at home. He had a black trouser. He had a black shirt and a T-shirt which had yellow and black colours. He had black shoe. He never came back home that day.
 - iii. I was called the next day at 7.00 a.m near Karumande Primary School. I went there and found many people standing next to where my husband lay dead. I saw the body he had an injury near the eye. He was naked. I sent my son to go and get a blanket. Police officers came and took the body. I went with the police to Kianyaga and later to the mortuary. I did not attend postmortem examination but I was around I identified the body and went out.
13. On Cross-examination by Muthike she said:
 - i. My husband went away and did not come back. He used to drink alcohol. He used to come home late. He did not stay out at night. We tried looking out for him when he failed to come home. I found him in a bar and we left him there it was around midnight. He was drinking alone. I told him we go home and he refused. Other people had left. There was a man inside the bar. (witness appears moved and emotional).
14. On the directions of the Court “the witness is stood down to enable her compose herself as she is unable to proceed” and further hearing set for 8/12/2016. PW4 was never recalled for further testimony on cross-examination and re-examination.

Hiatus in evidence

15. There a long period of inaction in the progress of the trial from 22/6/16 to 8.5.2024, when the trial did not proceed on account of non-attendance of witnesses despite witness summonses issued by the Court.
16. On 8/5/2024 PW5 Rosemary Wandama Gichobi testified that:

I am from Karumandi. I am a farmer.

I recall 3.11.2014 although a lot of time has passed.

I was at my house at about 7.30 a.m.

Then I heard people passing by saying a person had been killed.

I joined the people and we reached a place where a person had been killed.

I heard people say the deceased was Muthike.

The body was at the gate of one Samuel Muriuki.

I returned home and proceeded with my work.

At about 11.30 I received a call from the Chief one Sophia.

She asked me if I knew Julius Karimi (Accused). I said I knew him.

I asked her why. She said she will come and tell me.

He, Karimi was my worker and he was with me at home at that moment.

He Karimi was my herdsman and coffee plantation worker. We were harvesting coffee then.

We live in the same compound but he had a workmen’s house in the compound.



Karimi had worked for me for 1 ½ years.

The Chief later in the day came at about 12.00 and he was arrested as he went to sell his coffee which he had just harvested.

I knew the deceased he was from our village.

I knew his as Muthike.

At the time I employed him, he was brought by Joyce Muriuki. He came from outside our area, in Kagumo.

I don't know if deceased and Accused knew each other.

I never saw them together.

The deceased was much older than accused.

The deceased was a casual labourer.

When Accused went to sell coffee, the police said Accused was one of the people who had killed the deceased.

I took police to Accused's house. They took his clothes: a vest, T-shirt and trouser and his shoes.

He was arrested by Police and Chief.

They wrote the things they took from Accused.

I did not sign for the items because the police took the items.

I was then told to go to the Police Station to file a report.

I have been coming to court for 7 years.

Accused used to start work at 6.00 - 6.30 am by milking the cows and finish at 6.30 pm.

I gave Accused a free day to rest on Sundays.

On Sundays he left at 6.00 am and he would return at 6.30 pm.

When there was no work.

During his employment he did not.

I don't know if he had friends around.

I don't know why police suspected the Accused.

17. On Cross-examination by Mrs. Makworo, she said:

The night I heard of the death, I had seen Accused at 9.30 pm when he came home for supper. That night it had rained. The accused came home wet.

That night he had a T-shirt and I think a trouser.

The clothes taken by police were wet.

I never saw Accused with friends at home.

Accused sometimes drunk.

When Chief called me, I did not tell him.



Accused worked for me. That day he worked as normal with no anxiety.

The nearest centre to where I lived is Karumande.

From Karumande you first reach where deceased was then you come to my place.

Police said Accused was one of the persons.

The police said there were others.

Peter was employed by a brother. He was not home that night. He never returned.

I know the shoes taken by police belonged to Accused.

I know nothing about the deceased's death.

18. On Re-examination by Mamba, she said:

Accused came to my house.

I don't know why no visitors/friends came to visit Accused.

The things taken by Police were his.

They said they heard I had employed the Accused.

It was Police who asked me to direct them to where Accused was staying.

I was not told to come today. I came myself as I usually do.

19. At the end of hearing that day, the DPP sought summons for County Commander. The Court observed that "This matter, as I had already said has taken inordinately long. There is need for an explanation why that is the case. Accordingly summons to issue to County Commander, Kirinyaga to appear in Court tomorrow 9.5.2024.

20. On 9.5.2024 the Court was informed that the prosecution had served County Commander with summons and the officer who deputized him Corporal John Koech was present, and No.58732 Corporal John Koech was sworn and reported that:

I am at DCI Kirinyaga East during general investigations. I am aware of this case where Corporal Julius Koskey is the investigating officer.

Corporal Koskey is on training. He had handed over the file to Corporal Nyange. Corporal Nyange who fell ill and he did not hand over the file.

Yesterday I found the file and we request 1 day to get the remaining witnesses, to get 6 witnesses.

Counsel for the Accused Mr. Mwagiru objected that the case had taken long time and the Accused's right have been violated and sought the court's direction on closure of proceedings.

Mamba: We agree that the matter is old and on case closure the state has done no wrong doing prayed for 1 more hearing day as the victim's family were not notified.



21. In its Ruling, the Court said:

“The Court has heard the parties on the issue of inordinate delays in this case. The explanations given by the officer deputed by the County Commander are totally unsatisfactory.

The last hearing was in 2016, and in 2022 on 26.4.2022 the court gave very clear directions on how to move forward the case. At that time the case was at the time 6 years old and was not moving.

As I had said yesterday, this is a case where the prosecution and the police are either not in tandem on how to proceed or are unable to proceed within the given timelines.

In 2022 the court had directed that the alleged remaining witness, a doctor was to testify. Today the Court is told that there are 6 witnesses pending by the deputing officer.

Indeed, yesterday one witness who happened to be in the courtroom surprised the prosecution, and I ordered that she give her evidence forthwith. It was a lucky point for the state.

In the circumstances, I direct the state to close its case forthwith; hearing after call over.”

22. PW6 Dr. Ndirangu Karomo, a medical officer working at ACK Mt. Kenya Hospital and qualifying in 2008 University of Nairobi, MBCHB testified that:

My Board Registration No. A 6050. I am producing Post Mortem Report on behalf of my colleague Dr. Kenneth Wangombe Munyi who I have worked with for over 14 years. He is currently working at Kenyatta University Teaching and Referral Hospital. I am familiar with his handwriting and signature.

This is a Post Mortem Report of Joseph Muthike Mbuti performed on 14.11.2014 at Kibugi Funeral Home. Deceased was identified by Speranda Kathaa Muchiri and Anthony Kinyua Muthike who were escorted by PC Victor Odhiambo.

It was alleged that deceased was assaulted by unknown people and body found dumped by the roadside.

He was identified as a 40-year-old African Male; height 5’ 11”

External Appearance of body:

2 cut wounds on skull – one just above left eyebrow about 3 cm long and the other on the left parietal bone also 3 cm long.

Lower lip was grossly swollen.

There was a cut just below left ear 2cm long.

There were petechiae all over the back which would indicate dragging the body from the head.

There was a big graze on lateral side of left buttock.

There were small petechiae all over the skull on both limbs.

a. Internal Appearance of body

b. Digestive system



There was a lot of blood in the peritoneum.

Liver and spleen were normal.

No injuries on the rest of the system.

Cause of death was identified as cardio respiratory arrest secondary to internal hemorrhage.

Death Notification No. 756258.

Signed by Dr. Ken Munyi and stamped by Kibugi Funeral Home.

I produce the Post Mortem as PExb 1.

23. On Cross-examination by Makworo he said:

Post Mortem was done on 4th day after death.

It was not indicated if alcohol was ingested.

Alcohol would have been detected.

We ask for deceased's clothes. Here no clothing was availed.

We can't tell the state of his clothes.

If deceased was wearing clothes, they would have been blood-stained.

Petechiae are small blood stains which don't form a pool of blood.

24. On Re-examination by Mamba:

The conclusion as to death are not consistent with drinking.

There were no clothes brought with deceased.

25. PW7 No. 58732 Corporal John Koech based at Kirinyaga East DCI was presented to stand in for the investigation officer testified that:

I am acquainted with the writing of several officers, e.g P.C. Odhiambo, Corporal John Koskei, Inspector Mogomere.

I have known these through my daily work and reading OB of date 19(3)11/2014: there was a report made from Karumandi AP Post, through the OCS by officer-in-charge Samuel Mburu.

It was reported that students had met a man lying along the road.

OB was No. 19/3/11/2014.

Upon OCS receiving the report he made an "Oscar" "Oscar" message which means it needs immediate attention. He wrote the message and sent officers to the scene.

Inspector Aggrey Makwere and PC Victor Odhiambo went to the scene.

They saw the body and it was ferried to the morgue.

[Counsel for the DPP Mr. Mamba: He seeks to produce statements of investigating officer. Defence Counsel Mrs. Makworo objected and the Court ruled that "Objection sustained on grounds that the statement is not hand written."]

[PW7 continued:]



When Inspector Mogomere and OCS arrived at the station they handed over the investigation to PC Odhiambo via a written communication.

PC Odhiambo visited the scene and was able to arrest the suspect Julius Karemi Mugo and Stephen Gichobi Nyaga and he came to the station with them.

On 4.11.2014 PC Odhiambo filed Misc. Application 72/2014 at Gichugu Law Courts informing of the arrest of the two suspects. He was granted nine more days to investigate. In the course he charged Julius Karemi Mugo. He appeared in Court on 18.11.2014.

PC Odhiambo questioned witnesses and he identified one Susan Gakii as a person who was in the bar.

She was called to an identification parade and identified Julius Karemi as a person who was at bar where there had been a fight. An identification parade was conducted by I.P Magomere and Accused 1 identified.

PC Odhiambo compiled a file and brought it for prosecution.

Police Affidavit Misc. Application CR. No. 72/2014 Gichugu but not the annexures which are not indicated in the body of the Affidavit as being such marked as PExb B 2.

Susan Gakii stated that shoes were left at the bar together with other items. There is a list of items in the handwriting of PC Odhiambo being a list of items found in the bar. It is signed by Accused. We produce it as PExb 3.

26. On Cross-examination by Mrs. Makworo:

The items were recovered at the bar where Susan Gakii served as waitress.

[Shown P.Exb.] It is titled list of items recovered at Karuri village at Rosemary Wandama Gichobi's place on 3rd. Rosemary was PW5.

The items in the list were not recovered at the bar.

I have not produced the list of items from the bar.

The Accused was arrested together with Stephen Gichohi Nyaga.

Stephen Gichobi was dropped and not charged.

There is an identification parade.

It was done by Inspector Mogere.

In Investigation Diary does not say who assaulted who. Susan Gakii identified only the suspect. I'm not sure if Accused's house was searched or if anything was recovered on him.

The deceased body was lying on the road about 3 Kms from the bar.

27. On Re-examination by Mamba, PW7 said:

[Shown PExb 3] The date of this document is 3.11.2024 at 1.30 pm.

It has the signature of PC Odhiambo. It shows the properties found at Rose Wandama place. These items had most likely been moved from the bar. I don't know at what point Stephen Gichobi was dropped.

The body of deceased was found along the road by students.

The distance of 3 Km where body was found is my estimate.



Prima facie case

28. On 20.11.2024, the Court, (Hon. R. Mwangi – Judge) found a case to answer and the accused was placed on his defence.

The Defence

29. Upon being placed on his defence, the Accused Julius Karimi Mugo gave sworn testimony as DW1: as follows:

I lived at Karumandi in 2014. I was charged with murder of deceased Muthike. Joseph Muthike Mbiti is a person I knew as mason. On 2.11.2014, I did not kill the deceased. I do not know what happened on 2.11.2024. I knew Stephen Gichobi Nyaga. He is a witness in this case (PW1). He said he left his shoe at a club Comfort Bar. He also said he did not see fighting with the deceased. I do not know whether Stephen had been arrested by the police but I went in the cell. He had been arrested in this case. I do not know whether his house was searched. I do not know how he was arrested. I heard Stephen says that there were exhibits recovered from the bar. I did not see the exhibits produced before this court. No prosecution witness stated to have seen me fighting with the deceased. I pray that if the court does not find me guilty it should release me. I was at the club Golden at Karumandi. I left the club while drunk. I do not know how or whether I went to Comfort Club.

30. On Cross-examination by Mr. Mamba:

I was arrested on 3.11.2014, they told me that I was a suspect in murder of Muthike. I knew Muthike and I worked in his area. I did not beat Muthike on 2.11.2014. Stephen Gichobi Nyaga. I know him. Paul Muchira Mbiti (PW2) I know him. Cicily Wawira Njoka (PW3) I know her. Ngatha Muchira (PW4) I know her.

Rosemary Gichobi (PW5) I know her. I heard them testifying before the court.

When you are arrested, you were interrogated and wrote a statement?

Yes, it is written for me.

[Statement of Accused - Statement indicates the police officer recorded statement.]

I do not know what happened. I was only told when I was arrested. It had rained on 2.11.2014. If I did anything at Comfort, I can't tell who saw me at Comfort.

Police came to the place where I worked and took me to my house.

Re-examination:

The police did not recover anything from my house.

Submissions

31. Counsel for the parties chose to rely on the same submissions they had filed at the stage of case to answer.
32. The defence Counsel Mrs. Rose Wangari Muthike Makworo submitted in Submissions dated 21/5/2024 primarily on insufficiency of evidence, as follows:

“Your lordship PW1's sandals and the deceased's shoes despite the allegations that they recovered at the scene were not produced in Court.



PWII - Paul Muchiri Mbita in his evidence in chief stated;

- That he left Comfort Bar at 6pm only to be informed the following day that his brother had been killed. He went and identified him and that he was naked.

On cross- examination PWII indicated that;

- He got to Comfort bar at 5.00pm.
- That the deceased's clothes were scattered everywhere.
- That the shoes had mud but did not have water.
- That he never saw the Accused at the bar. None of the items mentioned by the witness despite having been recovered were produced by the prosecution.

PW3- Cicily Waweru Njoka, The said witness only said that she found the body lying at the gate. That she did not know the Accused. The witness on cross- examination could not tell what happened to the Accused

PW4- Speranda Kathaa Muchira- PW4 was the wife to the deceased. The Witness stated that she did not know the Accused.

- She further in her evidence in Chief stated that the deceased never came back home.
- She stated that when she was called she went to view the body and indicated that the deceased was naked.
- On cross- examination PW4 stated that the deceased liked drinking a lot
- She contradicted her evidence by indicating that at midnight her and the son went to look for the deceased. That they found him at the bar and he declined to go home.
- All the witnesses who had testified earlier indicated that the bar was closed at 10:30 pm and that everyone went out. According to PW4 the deceased was still drinking at midnight when she went to look for him. •
- However, she could not remember the. name of the bar that they went to loo.
- That the deceased was drinking alone and he declined to go home upon their request.

PW5 Rosemary Wamanda Gichohi told the Court that she had employed the Accused and was living with him.

- She told the Court that on the morning of 3rd November, 2014 the Accused had woken up at 6:00am, had milked and delivered the milk and came back to work in the farm.
- That the Accused later worked in the farm and while delivering coffee he was arrested and brought back home by police officers.
- That the police searched the home and recovered wet clothes

On cross- examination she told the Court that;



- The Accused had taken dinner and had left to his house at around 9:50 pm. - She could not tell whether the Accused left home or not.

- She only heard people talk of a dead body in the morning.

- Apart from having employed the Accused she had no other information about the death.

- She indicated that on the on the night of the 2nd November, 2014 it had drained.

PW6 the medical doctor produced the Post-Mortem report important to note from the report was;

- The clothes were not availed for observation.

- There was no alcohol detected in the Accused digestive system despite the witness having stated that the Accused had been drinking.

PW7 was the prosecution last witness. The witness stood in for the Investigating Officer and the arresting Officer. It was PW7's evidence that;

- i. The Accused was arrested together with one Stephen Gichobi (PW1).
- ii. That a Miscellaneous Application was filed in Gichugu where the police were seeking for more time to detain the Accused and one Stephen Gichobi Nyaga.
- iii. That the Accused was positively identified by one Gakii the bar owner. .-iv. That various items had been recovered at the bar and an Inventory had been filed.

Your Honour the witness on cross-examination could not tell the following; i. Despite the list produced indicating that the items were recovered at Rosemary Wandama's home, the evidence was to the contrary as the 'witness maintained that the items had been recovered at the bar.

- ii. The witness also never produced the exhibit's that had been mentioned despite stating that an inventory list had been prepared that contradicted with his evidence.
 - iii. The report from the identification parade was equally not produced
 - iv. There was no evidence that was given to connect the accused to the murder of Joseph Muthike Mbiti. Your Lordship from the evidence as adduced by the Prosecution Witnesses no evidence neither any witness connected the Accused to the Murder of the deceased.
3. Crucial "witnesses were not called upon to give evidence.

Identification of the Accused

Although a parade meant that there was an issue as to the person who had been seen with the deceased. The person who identified the Accused was not called to give evidence neither was the report produced to the Court. Why was the parade being conducted?



4. Burden of proof in criminal cases.

Your Honour, Proof of cases in criminal matters should be one beyond reasonable doubt. The case as against the accused must be proved by the prosecution beyond any doubt. The evidence produced must be sufficient to prove the fact or issue to justify a finding on that fact or issue in favour of the party on whom the burden lies”

33. For the Prosecution, the doctrine of last seen with was heavily relied upon in the Submissions filed by Counsel Mamba Vincent dated 17/3/2024 as follows:

“Section 203 of the Penal code places the burden on the Prosecution to prove that

- 1) The death of the deceased occurred.
- 2) The death was through unlawful acts or omission of the accused.
- 3) The accused person had malice aforethought.

We submit that the evidence tendered so far places the accused persons at the scene of the Crime squarely and the death of the deceased was due to the wrongful act of the accused persons.

Section 206 of the Penal Code stipulates that; Malice aforethought shall be deemed to be established by evidence proving:

- a) An Intention to cause the death or grievous harm.
- b) Knowledge that the act or omission causing death will probably cause death of or grievous harm to the same person,
- c) An intention to commit a felony

We submit the accused [Julius Karemi Mugo] was positively identified by Pw-I (Stephen Gichobi Nyaga) as having been the one who assaulted the deceased and kept pushing him in and out of the drainage water near [Texas] bar. This fact is confirmed by Pw,5 [Rosemary Wandaru Gichobi} who was the accused employer that when the Police searched the accused [Julius Karemi Mugo}'s house, they found a black jacket, a pair if brown leather shoes, a white vest and a bluejeans all which were wet. The evidence of Pw-I [Stephen Gichobi Nyaga indicates that after the accused tried to assault him when he tried to intervene, it was the last time he saw the deceased [Ioseph Muthike Mbiti] on the 2nd November 2014until he learned of his demise.

In Republic vs. ECK Lady Justice Lesiit in her analysis quoted the doctrine of the last seen with the deceased and stated:

"Regarding the doctrine of the last seen with the deceased, I will quote from the Nigerian Court case of Moses Jua vs. the State (2007) (PELR, CA/1142/2006. The Court while considering the last seen doctrine held: "even though the onus of proof in criminal case always rests squarely on the prosecution at all times, the last seen theory in the prosecution of murder or culpable homicide cases is that where the deceased was last seen with the accused, there is a duty placed on the accused to give an explanation relating to how the deceased met/ or his death. In the absence if an explanation, the court is justified in drawing an inference that the accused killed the deceased'.



The Court will appreciate the fact that two witnesses confirm and place the accused person herein at the scene of crime.

The fact that injuries were inflicted to the deceased and the accused was positively identified as the perpetrator of the offence.

Identification of the accused Julius Karimi Mugo is important for reasons that:

- a) Guilt is assigned to him wholly.
- b) He bears the punishment of the deceased death.

We submit that Pw-I [Stephene Gichobi Nyaga] and Pw~5 [Rosemary Wandarua Gichobi] link the accused to the offence of murder of the deceased Joseph Muthike Mbiti as the items recovered are described.

The item recovered placed him squarely as the perpetrator that caused the death of the deceased.”

34. Judgment was reserved.

Issue for determination

35. Being mindful of the ingredients of the offence of murder, the issue for determination is whether the three ingredients of the offence of murder (1) the death of the person subject of the charge, (2) caused by unlawful act of accused and (3) with malice aforethought, have been established to justify a conviction for the offence of murder contrary to section 203 as read with 204 of the *Penal Code*.

36. See *Yokongwa v Republic (Criminal Appeal 101 of 2016) [2022] KECA 897 (KLR) (28 April 2022)* (Judgment) approving Etyang’ J. in *Republic v Nyambura & 4 Others [2001] KLR 355* that-

“the Court in *Republic v Nyambura & 4 Others [2001] KLR 355* reiterated that there are three key elements for proof of the offence of murder namely, proof that: death of the deceased occurred; the death of the deceased was caused by an unlawful act or omission by the accused person; and lastly, that the accused in committing the unlawful act or omission possessed malice aforethought.”

Determination

Preliminary

37. The Court decried the trial herein as ‘a travesty of justice’ for reason of failure to secure the attendance of the prosecution witnesses and the resultant delay in the conclusion of the trial which opened on 18/11/2014 with the arraignment of the accused for the murder of the deceased herein.

38. In declining any further adjournment during the proceedings of 9/5/2024, the Court lamented the delay in this matter as follows:

“Court:

Ruling

The Court has heard the parties on the issue of inordinate delays in this case.

The explanations given by the officer deputed by the County Commander are totally unsatisfactory. The last hearing was in 2016, and in 2022 on 26.4.2022 the court gave very



clear directions on how to move forward the case. At that time the case was at the time 6 years old and was not moving.

As I had said yesterday, this is a case where the prosecution and the police are either not in tandem on how to proceed or are unable to proceed within the given timelines.

In 2022 the court had directed that the alleged remaining witness, a doctor was to testify. Today the Court is told that there are 6 witnesses pending by the deputing officer. Indeed, yesterday one witness who happened to be in the courtroom surprised the prosecution, and I ordered that she give her evidence forthwith. It was a lucky point for the state.

In the circumstances, I direct the state to close its case forthwith.”

The Defence

39. The Accused DW1 denies assaulting the deceased and points the Court to the deficiency in the Prosecution evidence that there was no evidence on recovered items, that there was no evidence that he had fought with the deceased and he asserts that he was drunk and he did not know what had happened to the deceased, and that the Prosecution’s key witness PW1 had been arrested by the Police.

Verdict

40. The Court has considered the evidence before the court and weighed the testimony of the prosecution and the accused’s defence as a whole as counselled in the *Okethi Olale v. R* cited in *Achieng v Republic* [1981] eKLR (Law, Miller (as he then was) & Potter, JJA) holding that –

“The evidence must be looked on as a whole, and it is not appropriate to make findings until the whole of the evidence has been evaluated, see *Okethi Olale v Republic* [1965] EA 555.”

41. The Court also bears in mind the requirement of proof to the standard of beyond reasonable doubt of all the three elements of the offence of murder contrary to section 203 as read with 204 of the [*Penal Code*](#).

Death of the Deceased

42. The deceased’s brother, PW2, neighbour PW3 and deceased’s wife PW4 all confirmed that the dead body of the deceased was found outside PW3 gate, totally naked with injuries on the face, - near the eye according to PW4. Medical evidence of PW6 also confirmed death.

Accused action as cause of death

43. The medical evidence of PW6 upon post mortem on the Deceased four days after the incident gave the Cause of death as cardio respiratory arrest secondary to internal hemorrhage and testified that the cause of death was not consistent with drinking, and presence of tiny blood particles and scratch injuries on the body suggested that the body could have been dragged.
44. However, apart from the evidence of the alleged push into the drainage ditch outside Comfort bar, there was no evidence of the accused’s involvement in the assault by several people, who the police at the time arrest the informed the accused’s employer PW5, had killed the deceased.

Identification of the Accused by PW1

45. The only evidence of the accused’s involvement in any act that could cause injury on the deceased is where it was alleged that the accused had pushed the deceased into a drainage ditch. That does not



explain the injuries on the body and indeed the witness PW1 himself also said he had been pushed into the ditch himself, and lived to tell the story.

46. In addition, the PW1's identification as evidence of identification by a single witness, would require corroboration, and as well as for the reason that the evidence of PW1 is likely evidence of an accomplice. The witness had been arrested in the initial investigations and subsequently cleared and called as a witness. There was no evidence as to the circumstances surrounding the pushing of the deceased and the PW1 into the drainage ditch. Could there have been a fight between the deceased and the witness on the one hand and the accused and his alleged collaborators?
47. The accused's employer PW5 on confirmed that the accused was her employee herdsman/coffee plantation worker for 1 ½ years and that he had been arrested at noon the day when the body of the deceased discovered with the police informing her that the accused was one of the people who had killed the deceased.
48. However, the evidence with the police that the accused had been one of the people who killed the deceased was not adduced in court. Susan who allegedly identified the accused at identification parade and the police officer who conducted the identification parade were not produced as witnesses.
49. The deceased's shoes which according to the PW1 and PW2 were taken by the police from outside the Bar and his clothes which were strewn all over the area near where the body was found according to PW2 or the accused's vest, T-shirt trouser and shoes taken by the police from the accused's house were not presented before court, and report on any identification DNA testing was adduced that could show that the deceased's DNA was present on the accused's clothes and shoes or that the accused's blood DNA was present on the deceased's shoes.
50. In accordance with R –vs- Turnbull & Others (1973) 3 ALL ER 549 the leading authority on identification by a single witness as in this case neighbour PW1 who while drunk, at midnight and in circumstances where intensity of lighting was not established, the Court must careful to seek corroboration so as not to proceed on a mistaken identity.
51. Of course, distinction is to be made in cases of identification by recognition as held in Anjononi and others vs. R (1980) KLR 59, and there will be no need for identification parade in cases of recognition as held in Peter Okee Omukaga & another v Republic [2011] KECA 332 (KLR):

“ As this was a case of identification by recognition, an identification parade was unnecessary. The non-recovery of the stolen articles did not in any way point to the innocence of the appellants.”
52. In this case where the witness PW1 stated that he knew the accused as a casual worker at Rose's (PW5) home who 'lived a distance away from us' yet the Deceased's brother PW2 clearly said he did not know the accused and where the police had to conduct an identification parade for Susan Gakii, the barwoman to identify the accused, it would be against the necessary caution to admit the identification evidence of PW1 uncorroborated. The drunken state of the identifying witness PW1 also calls for caution. The alleged recovery of the accused's own clothes and shoes from his home is no corroboration as it would have been if the clothes had been recovered at the scene.
53. The Court does not find it safe to convict in the circumstances of identification in this case.

Gaps in the testimony

54. In addition this Court notes that the prosecution did not complete the prosecution of the case in some respects such as the necessary recall of the Deceased's widow (PW4) who broke down during her cross-



examination; the presentation of any evidence extracted from any DNA recovered from the accused's clothes and shoes taken upon his arrest, or on the deceased's shoes allegedly recovered from the scene; and the presentation of the Identity Parade report on the identification parade conducted to point out the assailant, as well as failure to call the identifying witness one Susan as a witness and the testimony of Chief Inspector of Police who would have conducted the identification parade in accordance with the law.

55. The reference to the ID parade by the prosecution witness No. 1 (PW1) who allegedly participated in the parade as one of the 11 persons paraded does not assist at all as there is no evidence as to the outcome of the identification parade.
56. The defence is entitled to the adverse inference in *Bukenya & Others vs Uganda* [1972] E.A.549 that the witnesses and evidence not availed would have been adverse to the prosecution's case.

Contradictions

57. Moreover, there are material contradictions that while PW1 said the deceased had left the Comfort Bar at 10:00pm only to be found outside the Bar with the accused pushing him into a ditch, PW4 the deceased's wife testified on cross-examination that she had left the deceased drunk in the bar after he refused to go home
58. The Investigation Officer PW7 said the body was discovered 3 kms form the Bar, PW2 said the body was found outside the PW3's gate 500 metres from the Bar.
59. While the PW1 story presents a case where there were at least two other people Njoroge, Macharia who were outside the Bar when the accused pushed PW1 and he called for their help, the Deceased's wife PW4 said on cross-examination:

“My husband went away and did not come back. He used to drink alcohol. He used to come home late. He did not stay out at night. We tried looking out for him when he failed to come home. I found him in a bar and we left him there it was around midnight. He was drinking alone. I told him we go home and he refused. Other people had left. There was a man inside the bar. (witness appears moved and emotional).”

60. As the witness PW4 did not complete her testimony, the court is not able to establish the correct position.
61. The Court is not satisfied that any unlawful action of the accused caused the death of the deceased.

Doctrine of “last seen with”

62. On the evidence, the doctrine of last seen with requiring that the accused be the last person to be seen with the deceased is not properly founded. PW1 who claims to have been pushed into a ditch as well as by the accused when he asked the accused to stop pushing the deceased said there were at least two others as follows:

“When I went out, I found Karemi pushing Muthike into a drainage full of water as it was raining heavily. I told Karemi to leave Muthike alone as he was my neighbour. When I told him that, he left Muthike and turned on me and pushed me into the ditch as well. I called out Njoroge to help as I was drunk. Njoroge did not come. He was standing by with Macharia. We were just outside the pub. I cried for help while on the ditch and Karemi left me. I stood up and started looking for sandals and my cap. I saw that Karemi was coming back for me and I took off and he came after me. He chased me for around 40 metres but he could not catch



up with me. When he could not, he surrendered and I proceeded home as it was raining. Karemi went back to where Njoroge and the others were standing. By this time, Muthike had managed to crawl and was seated on the ground near the club.”

63. Indeed, there was no corroboration that the accused was last person seen with the accused, as happened in the Court of Appeal decision in *Musimbi v Republic (Criminal Appeal 107 of 2020)* [2023] KECA 287 (KLR) (17 March 2023) (Judgment) where the Court said as follows:

“In this case, the genesis of the doctrine of ‘last seen with’ is hinged on the evidence of PW6 and corroborated by PW5. According to PW6, the deceased was last seen alive on the April 23, 2014 when she drove back into Nanu Apartments at 16.12pm. He recorded this fact in the Register maintained at the gate and confirmed that he saw the deceased walking to the lift while carrying a flower pot. Shortly thereafter, around 4.30m, he saw the appellant leave with another lady through the rear gate instead of the front. PW5 corroborated this account of events by confirming having seen the appellant and her companion on the same day around the same time and was categorical that the appellant even greeted her by shaking her hand. To further corroborate the evidence that the appellant was the person last seen with the deceased, the prosecution tendered DNA evidence which placed her at the scene of the murder. The DNA profile generated from the bloodstain found on the clothes that the appellant wore at the time she was regarded to have been with the deceased matched the DNA profile from the blood of the deceased with a probability of a match of 1 in 5.65x 1/10¹⁵.”

64. In this case, it was also not unequivocal as in the case of *Kamau v Republic (Criminal Appeal E131 of 2022)* [2024] KECA 1193 (KLR) (20 September 2024) (Judgment) that the accused was the last person to have been seen with the deceased a few hours before her death.
65. In the present trial, the deceased’s wife said the deceased was left alone at the Bar, and PW1 contradicts the deceased’s claiming that deceased had left the Bar at 10.30 pm when he was pushed in a ditch by the accused, with other people Njoroge and Macharia standing by. The clothes and shoes recovered at the scene and from accused’s home were not produced and DNA thereon compared to place the accused at the scene amnd with the deceased. The doctrine of last seen with cannot be invoked against the accused without corroboration as his being the last person with the accused in this circumstances.

Malice aforethought

66. Evidence of long drinking upto Midnight from before 3:00pm when PW1 found the deceased drinking with his brother Felix with the accused later coming into the Bar. There was no evidence as to how the deceased lost his shoes outside the Bar. If there had been a fight, could a charge of murder in the circumstances of the drunkenness of the deceased, which was acknowledged by his brother PW2 and his wife PW4, and presumably drunkenness of the accused and others with him?
67. Malice aforethought is defined in section 206 of the *Penal Code* as follows:

“206. Malice aforethought

Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances—

- (a) an intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;



- (b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;
- (c) an intent to commit a felony;
- (d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.”

68. Intention to cause death or to do grievous harm or knowledge that the act or omission will likely cause death or grievous harm is sufficient to demonstrate malice aforethought.

69. However, there is authority in *Bakari Magangha Juma v Republic* [2016] eKLR (Makhandia, Ouko (as he then was) & M’ Inoti, JJA.) that intoxication or drunkenness may affect the capacity to form the necessary mens rea for murder:

“Under section 13 of the *Penal Code*, intoxication is not a general defence to a criminal offence, except in the circumstances set out in the section. A person who commits an offence while intoxicated is not ipso facto excused from the consequences of his act. In our view the section affords a defence of intoxication in three situations as follows.

The first situation is in what is called involuntary intoxication, where at the time of commission of the act complained of, the accused person does not know that it is wrong or does not know what he is doing, because of intoxication caused without his consent by the malicious or negligent act of another person. In such a case, the court is required to discharge the accused person.

The second situation is where the accused person, by reason of intoxication is insane, temporarily or otherwise, so that at the time of commission of the act complained of, he does not know that it is wrong or does not know what he is doing. This situation brings the case within the M’Naghten Rules and the court is required to deal with the accused person in the manner prescribed by the *Criminal Procedure Code* for accused persons who were insane at the time of commission of the offence, culminating in a special finding of guilty but insane and the detention of the accused person in a mental hospital at the pleasure of the President.

In *Rex v. Retief* [1940-1943] EA 71, the former Court of Appeal for Eastern Africa explained this aspect of the defence of intoxication as follows:

“The insanity whether produced by drunkenness or otherwise is a defence to the crime charged. The law takes no note of the cause of insanity and, if actual insanity in fact supervenes as the result of alcoholic excess, it furnishes as complete an answer to a criminal charge as insanity induced by any other cause. It is immaterial whether the insanity so induced was permanent or temporary and if a man’s intoxication were such as to induce insanity so that he did not know the nature of his act or that his act was wrongful, his act would be excusable on the ground of insanity and the verdict should be as laid down in section 159 of the



Criminal Procedure Code ‘guilty of the act charged but insane when he did the act.’ ”

The third situation, contemplated by section 13(4), arises where by reason of intoxication the accused person is incapable of forming a specific intent, which is an element of the offence charged. Sometimes this situation is referred to as “intoxication or drunkenness negating mens rea”. In *Said Karisa Kimunzu v. Republic*, CR App No. 266 of 2006 (Msa), this Court stated thus regarding intoxication or drunkenness negating mens rea:

“But under subsection (4) the court is required to take into account the issue of whether the drunkenness or intoxication deprived the person charged of the ability to form the specific intention required for the commission of a particular crime. In a charge of murder such as the one under consideration, the specific intention required to prove such an offence is malice aforethought as defined in section 206 of the Penal Code. If there be evidence of drunkenness or intoxication then under section 13(4) of the Penal Code, a trial court is required to take that into account for the purpose of determining whether the person charged was capable of forming any intention, specific or otherwise, in the absence of which he would not be guilty of the offence. In the circumstance of this appeal, the learned trial Judge was required to take into account the appellant’s drinking spree of the previous night and even that morning in determining the issue of whether the appellant was capable of forming and had formed the intention to kill his son.”

From the foregoing, we are satisfied that the respondent’s assertion that the defence of intoxication is only available to an accused person where he is proved to have been insane by reason of intoxication is absolutely without merit. In *Julius Obare Angasa v. Republic*, Cr. App. No. 271 of 2008, this Court quoted *David Munga Maina v. Republic*, Cr. App. No. 202 of 2005 and addressed the issue directly as follows:

“...a party who says he had taken some liquor is not necessarily raising the defence of insanity. Such a person may only be asking the court to take into account the fact of his having consumed liquor and whether that state had deprived him of the ability to form the specific intent to kill. The court is under a duty to consider such a defence where it is raised...”

70. In this case where the act causing death has not been proved to have been caused by the accused, the occasion for examination as to the presence of malice aforethought has not arisen.

Conclusion

71. At best the Prosecution evidence amount to this: The deceased who had been drinking at Comfort Bar, Karumande on Sunday 2/11/2014 since 3:00pm left the Bar after closing time at around 10.30 pm according his friend and neighbour PW1. The dead body of the deceased was found outside the gate to the home of PW3 some ½ kilometre from the bar, according to the deceased’s brother PW2. The evidence of the deceased’s wife PW4 is incomplete but it does not implicate the Accused. The Accused’s employer PW5 only testified as to the telephone by the Chief implicating the accused in the death of the deceased and the subsequent arrest of the accused by the Chief with the Police and recovery of some of the accused’s clothes and shoes. The cause of death was established as internal bleeding suggestive of assault but there was no evidence other than alleged push of the deceased by the accused into a ditch outside the Bar where they had been drinking. The eye-witness account of PW1 is limited in that it was only on the pushing of the deceased into a ditch not any fighting or beating or



dragging which were suggested by the evidence of deceased's injuries and there was no corroboration of his identification evidence as evidence of identification parade allegedly conducted was not led and no DNA profiling connected the accused to the deceased's shoes allegedly recovered from outside the Bar or the Deceased's DNA on the accused's clothes and shoes recovered from his house on arrest.

72. The doctrine of last seen with is not properly taken in this case, where evidence indicates several other persons were last with the deceased at the bar and at departure after the closing time, including the prosecution's key witness PW1 himself.
73. The Accused DW1 in his defence said that he had been drunk on the material day and could tell what had happened and he was just informed by the police upon arrest. In these circumstances, the court considers that even if there had been evidence of his involvement in beating or fighting with the deceased, there would a question where in terms of section 13 (4) of the *Penal Code*, the accused's drunkenness or intoxication was such as to negative the mens rea for the offence of murder, as held by the Court of Appeal in *Bakari Magangha Juma v Republic* (supra).
74. The doubtful nature of the Prosecution evidence before the Court was cast by the prosecution's own witness PW7 who stood in for the Investigation Officer and on cross-examination confirmed significantly that:

“The Accused was arrested together with Stephen Gichohi Nyaga.

Stephen Gichobi was dropped and not charged.

There was an identification parade.

It was done by Inspector Mogere.

In Investigation Diary does not say who assaulted who. Susan Gakii identified only the suspect.

I'm not sure if Accused's house was searched or if anything was recovered on him.”

75. The Court considers that it is wholly unsafe to base a conviction on the evidence presented by the Prosecution in this case.

Orders

76. Accordingly, for the reasons set out above, the Court finds that the prosecution has not proved the charge against the accused to the required standard of beyond reasonable doubt and the accused is, consequently, acquitted of the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*.
77. There shall, therefore, be an order for the immediate release of the accused from custody unless he is otherwise lawfully held.

Orders accordingly.

DATED AND DELIVERED THIS 12TH DAY OF JUNE 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Mamba for the DPP.



Mrs. Makworo and Ms. Otieno for the Accused.

