



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Njoroge (Criminal Case E001 of 2025)
[2025] KEHC 8228 (KLR) (Crim) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8228 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CRIMINAL
CRIMINAL CASE E001 OF 2025
KW KIARIE, J
JUNE 12, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

IBRAHIM KARANJA NJOROGE ACCUSED

RULING

1. Ibrahim Karanja Njoroge is charged with murder contrary to section 203, as read with section 204 of the *Penal Code*.
2. The particulars of the offence are that on the 29th day of December 2024, at Engineer Township, North Kinangop Sub County within Nyandarua County, they murdered Joel Njoroge Wanjiku.
3. The prosecution based its case on the evidence of Michael Kamau Wainaina (PW2), the sole witness who implicated the accused in the offence. It is well-established law that a fact may be proved by the evidence of a single witness. The Court of Appeal in *Kiilu & Another vs Republic* [2005] 1 KLR 174 reaffirmed the decision of the Court of Appeal for Eastern Africa in *Abdullah Bin Wendo vs Rex* 20 EACA 166, where it was stated:

Subject to certain well known exceptions, it is trite law that a fact may be proved by testimony of a single witness but this rule does not lessen the need for testing with the greatest care the evidence of a single witness respecting identification, especially when it is known that the conditions favouring a correct identification were difficult. In such circumstances, what is needed is other evidence, whether it be circumstantial or direct, pointing to guilt, from which a Judge or jury can reasonably conclude that the evidence of identification, although



based on the testimony of a single witness, can safely be accepted as free from the probability of error.

4. Michael Kamau Wainaina (PW2) testified that at about 1 a.m., he went to Kinja Bar and restaurant accompanied by the deceased and Peter, a boda-boda rider. Upon arrival, he went upstairs to purchase cigarettes, leaving the deceased and Peter downstairs. When he returned, he found the deceased seated on the ground and being beaten by DJ Kadabra, whom he identified as the accused, along with Isaac, the security guard. A tyre had been placed around the deceased's waist, and three girls were present near the scene of the beating. He reported to the police at 2 p.m. as he was very drunk.
5. In his admission, this witness was very drunk. Due to drunkenness, he slept in the open. He must have been very drunk to be unable to go home and to fail to feel cold. Engineer, like other parts of Kinangop, is very cold. Sgt Benjamin Ndambuki (PW4) confirmed this. He stated that when PW2 went to report at approximately 3 p.m., he seemed drunk.
6. In the statement he recorded, PW2 mentioned that when he went downstairs, he found the deceased surrounded by five people and three ladies. In court, he contradicted this and stated that around five people surrounded him. This witness cannot be relied upon to tell the truth. He is the kind of witness the Court of Appeal described in the case of *Ndungu Kimanyi vs Republic* [1979] KLR 283 (*Madan, Miller and Potter JJA*), when they held:

The witness in a criminal case upon whose evidence it is proposed to rely should not create an impression in the mind of the court that he is not a straightforward person, or raise a suspicion about his trustworthiness, or do (or say) something which indicates that he is a person of doubtful integrity, and therefore an unreliable witness which makes it unsafe to accept his evidence.

7. The investigations were poorly conducted. Although there was a report of an intrusion into some rooms at Kinja Bar and Restaurant, and that the deceased was attacked by members of the public, Sgt. Benjamin Ndambuki (PW4) did not attempt to verify the truth of the report.
8. Peter, a boda-boda rider, was a crucial witness who was never summoned. PW2 positioned him as central to the events that led to the death of the deceased. It came as a surprise when Sgt. Benjamin Ndambuki (PW4) said he had not been informed about him. Either PW2 was not telling the truth, or there was a failure to call a material witness. The Court of Appeal in the case of *Bukenya vs Uganda* [1972] EA 549 (*Lutta Ag. Vice President*) held:

The prosecution must make available all witnesses necessary to establish the truth, even if their evidence may be inconsistent.

Where the evidence called is barely adequate, the Court may infer that the evidence of uncalled witnesses would have tended to be adverse to the prosecution.

In the present case, I am inclined to infer that if this witness had been called, his evidence would have contradicted that of PW2.



9. After considering the evidence on record, the question is whether the prosecution has established a prima facie case against the accused. In Black’s Law Dictionary, 10th Edition, prima facie case is defined as follows:

Prima facie case. (1805) I. The establishment of a legally required rebuttable presumption.
2. A party’s production of enough evidence to allow the fact-trier to infer the fact at issue and rule in the party’s favour.

10. The Court of Appeal in the case of Ramanlal Trambaklal Bhatt vs R [1957] E.A 332 at 334 and 335 defined a prima facie case as follows:

It may not be easy to define what is meant by a “prima facie case”, but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.

11. Article 50 (2) (i) of *the Constitution* of Kenya provides:

- (2) Every accused person has the right to a fair trial, which includes the right—
 - (i) to remain silent, and not to testify during the proceedings;

12. In this instance, if the accused opts to exercise his constitutional right, as mentioned earlier, I cannot convict him based on the current evidence. Therefore, the prosecution has not established a prima facie case against him. I hereby acquit him of the charge of murder under section 306(1) of the *Criminal Procedure Code*. He is set at liberty unless he is lawfully detained for another reason.

DELIVERED AND SIGNED AT NYANDARUA THIS 12TH DAY OF JUNE 2025

KIARIE WAWERU KIARIE

JUDGE

