



**Prosecution v Mawanda (Criminal Case E060 of 2019)
[2025] KEHC 9834 (KLR) (8 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 9834 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL CASE E060 OF 2019
RN NYAKUNDI, J
JULY 8, 2025**

BETWEEN

PROSECUTION REPUBLIC

AND

ASUMAN MAWANDA ACCUSED

JUDGMENT

1. The accused person was charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars of the offence are that on unknown date between 24th and 27th July, 2019 at Kimondi Forest in Kapsabet area within Nandi County, jointly with others not before court murdered Fedinard Ongeru Ondieki.
2. When the accused appeared before this court for arraignment, he entered a plea of not guilty, thereby placing the burden on the prosecution to prove his guilt beyond reasonable doubt in accordance with Article 50(2)(a) of *the Constitution*. The prosecution was led by Mr. Mark Mugun and subsequently shepherded by Ms. G. Kirenge, while the accused was represented by Legal Counsel Mr. Mwaka.
3. The prosecution called 16 witnesses who gave evidence to establish the ingredients of the offence of murder contrary to section 203 as read with section 204 of the Penal code. The core elements to be proven by the prosecution for the court to make a finding of guilty include the following:
 - a. That the deceased has died
 - b. That his death was unlawfully caused
 - c. That in causing death, the accused person was actuated with malice aforethought.
 - d. That it was the accused person who committed the heinous crime.



Evidence: The state's version.

4. PW1: Ssenkaayi Jamiru testified that he is a Ugandan citizen who came into the country around 2016 at the behest of the accused. They were both certified herbal medicine practitioners from Uganda, having received consent of the Ugandan government to practice herbal medicine. The accused had expressed intention to set up a clinic in Kenya and had requested him to assist in setting up and running the clinic in Kisumu. His main responsibility was to receive clients, post advertising material and attend to the clients when the accused was absent. In the course of running the business, they met and attended to Ferdinand Onger Odioki, the deceased herein. He initially presented complaints of being obese and was weak. The accused treated him and in the course of the treatment, the deceased also disclosed that he had strained relationships at his workplace and that his workmates wanted him sacked. He would come for treatments which would consist of herbal medicine and “prayers” to cure him from the bad-eye cast upon him by his workmates. In the course of the treatments, the accused demanded that the deceased buy him a phone registered in the names of the deceased, for purposes of communication. He was aware that the accused used this phone and the phone no 0787-182-013, an Airtel number, to communicate with the deceased exclusively. The relationship with the accused blossomed so much that around 2018, the deceased invited the accused to his home area in Kisii to bless a house he had constructed and to influence a court case that had bedevilled him. The accused was thus introduced to the deceased's family members and they exchanged phone numbers.
5. At some point that year, he was aware that the accused informed the deceased that he could also influence his (the deceased's) wealth by multiplying his money. The deceased had been shown a metallic box, asked to open it up and examine what was inside. The deceased saw money and was informed that it was the desire of the spirits for him to have that money but there were things that prevented the deceased from accessing that blessing. In order to access the money, the accused disclosed to him, they would need to perform certain cleansing rites to appease the spirits which would in turn release the funds. He was aware that the deceased expended over Kshs. 200,000 to acquire the articles that would be used in that cleansing ceremony to appease the spirits and cause them to release the funds to him. The deceased continued attending their clinic for those rituals until sometime around 2019 when he started complaining that the people he who had lent him the money to invest in the cleansing ceremony, had been putting him under immense pressure to refund the money, something that he was unable to do since the spirits were yet to be appeased and release the funds. By this time, they (the accused and this witness) had expanded the business to Kitui and were in the process of finishing the set up that satellite clinic. He had been left to manage the clients in Nyamasaria- Kisumu as the accused set up the satellite clinic in Kitui.
6. He was aware that the deceased used to call the accused numerous times to inform him that he was under pressure to refund the money borrowed to conduct those rituals to appease the spirits. The accused informed him (this witness) that the pressure from the deceased was becoming unbearable and he did not want to receive any more calls from the deceased. The accused left the Airtel phone with him and went to Uganda, with instructions that he (the witness) was to address the issues from the deceased. As a result, he ended up pacifying the deceased on numerous occasions, beseeching him to be patient until the return of the accused from Uganda. The deceased at one point stated that his debtors were threatening to take legal action against him and that he would not hesitate to surrender the accused to the police should that happen. The threat to surrender the accused to the police shook him so much that the accused planned to have him executed before he did so. The accused was aware that he would be arrested for swindling the deceased of his money under the guise of conducting cleansing ceremonies to appease spirits. To prevent that, he asked this witness to hire a hitman to deal with the deceased.



7. Having been a victim of near-death experience, this witness knew exactly who would do the job. He approached a man called Oti, a man who had almost killed him in a robbery incident, to do the job. They agreed on a sum of Kshs. 50,000 for the job, which information he relayed to the accused. The accused gave him the money and insisted that it should only be paid out after confirmation that the deceased had been killed. In order to trap the deceased, the accused advised the witness to deceive him into believing that it was necessary to have special prayers in a mountain from a medicine man stronger and higher in ranking, to appease the spirits which would in turn cause them to release the funds. The deceased fell for that trick and agreed to meet this witness on 24/07/2019 in the afternoon after his shift from work. Oti had insisted that they should be killed far away from Kisumu to make it hard for the deceased to be identified by anyone. He then lured the deceased to meet him Kisumu Bus Park and together they went to Kapsabet, where the hitman, pretending to be the stronger and higher-ranking medicine man, awaited them. The deceased had carried a back-pack and a huge Tecno Tablet/Phone. They then went together to Kapsabet in Nandi County. He then introduced the deceased to Oti, the hit man, as the stronger and higher medicine man who would conduct the special prayers in the mountains, to appease the spirits causing them to release the blessing of funds promised. He left them walking towards Kakamega direction and after about an hour, Oti came back and informed him that he had finished the job. He brought along with him, the deceased's huge tablet/phone, two power banks and back-pack as proof that he had in deed killed the deceased. He paid Oti the fee hitherto agreed upon and they went back to Kisumu.
8. The following day i.e. 25/07/2019, he informed the accused (who was then in Uganda) that the job of killing the deceased had been successfully accomplished, to which the accused expressed satisfaction and gratitude. The witness then took the deceased's huge tablet/phone for formatting in Kisumu to factory reset it and thereby deleting any information stored therein. When the accused came back to the country, he handed over the Airtel Phone, the huge tablet/phone, the two power banks and the back-pack to him. The accused then went to Kitui leaving him to man the Kisumu clinic. Shortly thereafter, he was arrested by police officers who interrogated him concerning the murder of the deceased. They also seized some items from his house and clinic. He cooperated with the police and led them to Kitui where the accused was similarly arrested and some items connected to the case, seized from him. He recorded a confession before the police and a Principal Magistrate in Nyando concerning the incident. In court, he identified the 2 mobile phones, bag, power bank, posters and confession statements as MFI-1a-1c, 2A-2B and 3 respectively.
9. He admitted that he had entered into plea-bargain negotiations with the Republic and was sentenced to 15 years' imprisonment for his involvement. He informed the court that the motivating factor behind the cooperation with the police and prosecution stemmed from a contrite spirit. He simply wanted to pay for his crimes and asked that his co-conspirator similarly pays for his crime.
10. PW2: Isabella Mariachana Ondieki testified that she is a retired nurse and the mother of the deceased. She said that her deceased son used to work as a nurse at Riat Dispensary in Kisumu and was the deputy chairperson of the local branch of Kenya Union of Nurses. She knew that the deceased lived in a rental premises in Dago Trading Center. On 24/07/2019 she attempted to call the deceased to confirm if he would be visiting home. He was unreachable on phone. The following day, the deceased's wife called her to inquire if she had been in touch with the deceased, she expressed concern that the deceased had not spoken to her in two days which was highly unusual of him. She made inquiries with the deceased's friends and was informed that he was last seen heading for a Union meeting in Kisumu. Alarmed by that information, she went to Kisumu together with the deceased's wife and his father and wife to try and establish his whereabouts. They established that he had not been to his workplace since 24/07/2019. They then booked a missing person report at Dago Police Station and then went to the deceased's



rented house. They found the house locked from outside and upon further inquiry, were notified that the deceased had indicated that he would be attending a Union meeting in Kisumu but had not been seen since 24/07/2019. They were then forced to break into the house and inside, they found one of his phones charging. The policemen then tracked his other phone and noted that it had been last used in Kaptumo area in Nandi County, they were then advised to go there for further assistance. They heeded that advice and went to Nandi County but unfortunately any further information regarding the deceased's whereabouts was not immediately forthcoming. After a few days, they were requested to identify a body that had been found in a forest in Kapsabet in Nandi County. They identified the body as that of her son Ferdinand Ongeri Ondieki. The body had cut wounds on the neck and injuries on the mouth extending to both ears. The body was then carried away to Jaramogi Oginga Odinga Hospital morgue for preservation and post-mortem exercise.

11. She confirmed that previously, the accused had visited their rural home sometime around 2017 in the company of the deceased. Her murdered son introduced him as a herbalist from Kisumu. From then, she became so familiar with him that she did not hesitate to call and notify him that the deceased had been murdered. He however did not attend the burial and became rude at her repeated requests to attend the burial. In court, she identified huge tablet/phone, power bank and bag (back-pack) as the property of her murdered son. The phone had a crack which she immediately recognised and identified.
12. PW3: Prossy Nakimbigwe Ongeri testified that she was the widow. She was also a nurse but based in Nyansiongo in Nyamira county. She was aware that her husband worked at Riat Hospital and was the deputy chairperson of the local branch of the Kenya Natinal Nurses Union. She recalled that on 24/07/2019 the deceased called her in the morning hours informing her that he would be going to Kisumu for a Union meeting. She expected him to call her back in the evening as was the norm but he did not. She called one of his phones but it went unanswered. His usual Safaricom phone was unavailable. She then grew concerned because this was highly unusual of her husband not to pick or return her calls. She notified her parents-in-law about this unusual development and they decided to go to Kisumu to find out what could be the matter. At his workplace, they were informed that the deceased had not reported to work since 24/07/2019. They booked a missing persons report in Dago Police Station before going to the deceased's house which they found locked from outside. They broke into the house and found everything intact. One of the deceased's phones was charging in the bedroom and with the assistance of police, tracked the last known location of the deceased's other phone in Kaptumo-Nandi County. They visited Nandi County but further information regarding his whereabouts was not immediately forthcoming. After a few days, they were notified that a body meeting the description of her husband had been found dumped in a forest within Kapsabet-Nandi County. When they rushed there, they identified the body as that of her husband. Even though the body had started decomposing, she was able to note that it had a cut wound from left to right. There were also cuts from one ear to the other. The body was then escorted to Jaramogi Oginga Odinga Hospital in Kisumu for an autopsy exercise.
13. She was also able to identify to the court and the police a Tecno tablet/phone as her late husband's. She identified it with so much ease because it initially belonged to her but she swapped it with the deceased. The Tecno tablet/phone had scratch and cracked marks from a time she had tried to prise it open using a knife. She was also able to identify to the court and the police, a power bank and bag that belonged to her murdered husband. She explained that every time the deceased visited home, he would carry with him those two items hence making her quite familiar with them.
14. PW4: Kennedy Ochieng Oruath testified that he worked with the deceased in Riat Hospital. He recalled that the deceased notified him that he would be going for a Union meeting in Kisumu on 24/07/2019 and while there, had communicated to him that something was amiss with the Union.



The deceased did not report back to work after that and his text messages to the deceased remained undelivered. This was highly unusual of the deceased not to turn up to work and not respond to communication. He thus notified their supervisors and suspecting that perhaps he was harmed by govt. officials due to the Union's business, he booked a report at Dago Police Station. He was advised to follow-up the issues with Maseno Police Station but the family of the deceased picked up the issue from there. He later learned that the deceased's body had been found in Kapsabet-Nandi County. He attended the post-mortem examination and noted that his colleague's body had suture marks on both sides of the mouth running from ear to ear. He identified a black bag (back-pack) and power bank as items that resembled that of his murdered colleague.

15. PW5: Emily Cheronu testified that she was the assistant chief of Kamuruywa sub-location in Nandi County. She recalled that on 27/07/2019, she was informed by one of her subjects, that a body of an unknown human being had been found dumped in Kamondi forest. She went to the scene and found a naked body of an African male. There were bruises on the back which suggested that the body might have been dragged to the dump site. The body also had cut marks on the mouth and neck. She then informed the police about the discovery. The police in turn took the body to the morgue. She later learned through the media, that the deceased was from Kisumu and had been identified by his kith and kin.
16. PW6: PC Mathew Nudi testified that he was a police officer based in Kapsabet. He recalled that on 27/07/2019 at around 1000HRS he was notified of the discovery of a body in Kimondi Forest. They rushed to the scene and found the body lying facing downwards with deep cut wounds on the mouth and neck. They took photographs at the scene and escorted the body to Kapsabet County Hospital morgue. Later in the day, the relatives of the deceased came to identify the body. They successfully identified the body as Ferdinand Ondieki Ongeru, the deceased herein and later took it to Kisumu as burial preparations were made.
17. PW7: Eunice Awuor Ager testified that she used to work with the deceased at Riat Dispensary. Sometime around July 2019, the deceased approached her for help in getting money from people owed him. The plan was for her to call another party (the accused) posing as one of the people who had loaned money to the deceased, which sums the deceased had advanced to the other party (the accused.) She was to inform the other party of intentions to seek legal redress for the defaulted loan, which by would also mean that the other party (accused) would be arrested. The man on the other end of the phone(accused) pleaded with her for more time promising to repay the sum in two instalments. Later that same month, the deceased informed her that the man had not repaid the money and requested that she threatens him with dire legal action. On 23rd July, she saw the deceased at work and in the midmorning, he told her that he would be going for a union meeting later that afternoon. That was the last time she saw him alive. She confirmed that she did not know the man on the other end of the phone. She identified a big phone/tablet, backpack and power bank as the deceased. She had seen him with these items at work on previous occasions including the last time she saw him alive.
18. PW8: Ayub Okwach Odhiambo testified that he is a bodaboda operator within Dago market. He recalled that on 24/07/2019, the deceased asked him to pick him up from his house in Dago and take him to Kiboswa bus stage because he wanted to go for a Union meeting in Kisumu. In the afternoon, the deceased called him to pick him up from his house again. The deceased told him that he wanted to go for another meeting in Kapsabet. He took him to the bus park and noted that the deceased was wearing black sports kit and carried a black back pack. He was later informed that the deceased had been found dead in a forest in Kapsabet. In court, he identified the backpack as the same one that he saw the deceased wearing when he took him to the bus park.



19. PW9: Dr Kennedy Otieno testified that he was the pathologist who performed the post-mortem examination on the body of the deceased. The body had signs of decomposition with maggots at larva stage, which led him to believe that death had occurred within 72hrs from the time of examination. The body had cut wounds to the forehead measuring 2cm, nasal ridge measuring 3cm, right cheek measuring 10cm, below the left eye measuring 3cm and on the left cheek measuring 9cm. There were ligature depression marks on the right wrist, left wrist and chest area. The trachea was severed with blood aspirated into the lungs. The neck had a deep oblique, 24cm long incised cut wound on the anterior part. The left end of the injury started below the ear above the 1/3 of the cheek and deepened gradually with severance of the right carotid artery. The right side of the injury was mid 1/3 of the neck with a tail abrasion. This indicated that whoever cut the deceased's neck was right-handed. In his professional opinion, the cause of death was severe blood loss and aspiration of blood. The most likely cause was a homicidal cut throat by a right-handed person from behind with a poorly restrained head, hence the facial hesitation injuries.
20. PW10: Vincent Mangu testified that he is a liaison officer with Airtel. He indicated that he was requested by the DCI to find out the call data records for Tel No XXXXXXXXXXXX. This phone was registered in the name of the deceased. It was mostly used in Kisumu, Kitui and would go off the grid for days. For example, on 2nd June 2019, it moved from Kisumu to Kitui till 13th June 2019. Then on 16th June 2019, it moved from Kisumu to Kitui till 28/06/2019. Then on 28/06/2019 it was unavailable on the network indicating it might have been switched off or was not within the country. It resurfaced on 05/07/2019 in Kisumu. He produced the call data records as Exh 7a-7e.
21. PW11: Emmanuel Simiyu testified that he worked with the department of immigration. Their office was requested to supply travel history for passport No XXXXXXXX registered in the name of Moses Kiiza Othumani, XXXXXXXX registered in the name of Asuman Mawanda and XXXXXXXX registered in the name of Jamiru Ssenkaayi. He provided the travel history as requested together with the request and accompanying court order.
22. PW12: Chief Inspector Francis Munyi testified that he worked with the Digital Forensic Unit at the DCI Hq. He was requested to extract all messages, images and videos from mobile phones that were supplied to him. In his analysis Tecno mobile phone had been wiped and he could not retrieve messages, images and videos therein. He however found that the phone had been paired with both SIM Card for Tel No XXXXXXXXXXXX and would only be used for communication with the deceased's mobile phone.
23. PW13: testified that he worked as the Safaricom Liaison officer. He told the court that he was requested to obtain call data records for Tel No 0713 280-210 registered in the accused's name and 0798 406-565, which he did. He produced the call data records, letter requesting for data, certificate and court order as Exh 6a-6d.
24. PW14; CPL Vincent Langat testified that he was one of the investigators of this case. He told the court that the DCI Homicide team from Nairobi was called into action after a public outcry that the deceased may have been murdered by govt agents due to his union work. At that time, the nurses' union had been pressuring the national and county govts for better terms of service. He obtained call data records for the deceased which led him to apprehending Ssenkaayi Jamiru (PW1.) after being apprehended, Ssenkaayi became cooperative and on two separate occasions confessed to the crime, which confession was recorded initially by a Chief Inspector of Police and later before a principal magistrate in Nyando Law Courts. In a bid to corroborate what PW1 had confessed to, he obtained call data records of the Airtel phone operated by the accused but registered in the name of the deceased. Ssenkaayi (PW1) led them to Kitui where they arrested the accused and were able to retrieve paraphernalia associated with



witchcraft. They were also able to recover a backpack bag, huge Tecno phone/tablet, power bank from the business premises/home of the accused in Kitui. Friends and relatives of the deceased identified these specific items as belonging to the deceased. He also obtained travel history Ssenkayi Jamiru, the accused and their business associate, who also happened to be the son of the accused. He was satisfied that the accused was the financier of the murder owing to the fact that he was afraid that should the deceased blow the cover on his witchcraft business, which he had cleverly guised as a herbal medicine business, he would be arrested and his reputation would come to ruins. The accused was also unable and unwilling to repay the money that he had promised the deceased as a reward from spirits from beyond this realm. Every bit of information obtained from the confession checked out and he was thus satisfied that the accused was not only the financier, but also the initiator and planner. He thus preferred the charges against the accused. He produced the Accused's Passport, SIM Card, Inventory of Items recovered from Ssenkaayi, Inventory of Items recovered from the accused, 4 mobile phones and Exh memo as Exh 10a-10f. He also produced the backpack, Tecno mobile phone, power bank and posters advertising for witchcraft guised as herbal medicine as Exh 1a-1c and 2.

The defence case

25. When placed on his defence, the accused opted to give a sworn testimony where he basically raised a defence of alibi. He stated that at all material time, he was away in Uganda and could not have participated in the murder. He blamed the deceased's death on Ssenkaayi (PW1) his former business associate. He also stated that his, was not witchcraft business but rather the practice of traditional herbal medicine.
26. Either parties were directed to file their written submissions which have been summarized hereunder:

The Prosecution's submissions

27. Learned Principal Prosecution Counsel Mr. Mark K. Mugun filed comprehensive written submissions urging the court to convict the accused of murder. Counsel outlined that the prosecution must prove four essential ingredients beyond reasonable doubt: the fact of death, that death was caused by unlawful act or omission, that the accused committed the unlawful act causing death, and that the accused had malice aforethought. Reference was made to Anthony Ndegwa Ngari v Republic [2014] eKLR in establishing these legal requirements.
28. On the critical issue of positive identification and accomplice evidence, counsel submitted that the prosecution's case was anchored on the testimony of PW1 Ssenkaayi Jamiru, who confessed to the murder and implicated the accused as his accomplice. The prosecution relied on Anthony Kinyanjui Kimani v Republic [2011] eKLR in defining accomplice evidence and cited Michael Muriithi Kinyua v Republic [2002] eKLR regarding the legal framework for evaluating accomplice testimony.
29. Counsel argued that PW1 was a credible and trustworthy witness, emphasizing his voluntary confessions to police, his subsequent confession before a Principal Magistrate, and his cooperation through plea bargain negotiations resulting in a 15-year sentence. The prosecution referenced Timothy Irungu Ndegwa v Republic [2009] eKLR on the principles governing accomplice evidence credibility assessment.
30. Addressing corroboration requirements, counsel submitted that while PW1's evidence alone was sufficient for conviction, the prosecution nevertheless provided substantial corroborative evidence. This included call data records, travel history documentation, recovery of the deceased's personal effects from the accused's possession, and advertising materials linking the accused to the fraudulent herbal medicine practice.



31. On the doctrine of recent possession, counsel invoked Section 111 of the *Evidence Act*, arguing that the accused's possession of the deceased's backpack, power bank, and Tecno phone/tablet shifted the burden of proof to provide plausible explanation. The prosecution contended that the accused's explanations were neither credible nor timely offered.
32. In conclusion, Mr. Mugun submitted that the prosecution had established beyond reasonable doubt that the accused was the financier, initiator, and planner of the murder, citing *Anne Waithera Macharia & 5 Others v Republic* [2019] eKLR on joint criminal enterprise principles. Counsel urged the court to find the accused guilty as charged, emphasizing that all evidence corroborated PW1's detailed confession regarding the conspiracy to eliminate the deceased.

Accused's written submissions

33. Learned Defence Counsel Mr. Fortunatus Kioko Mwaka filed written submissions challenging the prosecution's case against the accused. Counsel submitted that the prosecution had called 14 witnesses but failed to prove the case beyond reasonable doubt, arguing that the accused should be acquitted of the murder charge.
34. On the credibility of the key prosecution witness, learned counsel submitted that PW1 Ssenkaayi Jamiru was an unreliable accomplice witness whose testimony was tainted by his plea bargain agreement. Counsel argued that PW1's confession was made in Kiswahili to police but his court testimony was in English, raising questions about consistency and reliability of his evidence.
35. Addressing the issue of corroboration, Mr. Mwaka submitted that the prosecution failed to provide sufficient independent evidence to corroborate PW1's testimony. Counsel argued that items such as the tablet, backpack, and power bank were commercially available products that could not definitively link the accused to the crime, noting that multiple witnesses admitted these items had no unique identifiers.
36. On the question of alibi, learned counsel submitted that immigration records demonstrated the accused was outside the country at the material time when the murder was committed. Counsel argued that PW11's immigration evidence confirmed the accused's absence from Kenya, contradicting the prosecution's timeline of events.
37. Regarding the digital forensic evidence, Mr. Mwaka submitted that PW12's examination revealed the deceased's tablet had been formatted with no retrievable data, and no evidence of communication between the accused and PW1 was found. Counsel argued that the prosecution failed to establish any electronic evidence linking the accused to the conspiracy.
38. On the call data records, learned counsel submitted that PW13's evidence was fundamentally flawed as the Safaricom liaison officer admitted accessing records without proper court orders and could not demonstrate any communication between the accused and PW1 during the relevant period. Counsel argued this undermined the prosecution's case on conspiracy.
39. Addressing the accused's defence testimony, Mr. Mwaka submitted that his client consistently maintained his innocence and provided a credible account of being a legitimate traditional healer operating clinics in Kisumu and Kitui. Counsel argued that the accused had no motive to harm the deceased and that any business relationship was conducted through PW1 as an intermediary.
40. In conclusion, learned counsel submitted that the prosecution had failed to prove the essential elements of murder beyond reasonable doubt, particularly causation, malice aforethought, and the accused's participation in any conspiracy. Mr. Mwaka urged the court to find that the prosecution's evidence was insufficient and contradictory, requesting the court to acquit the accused of all charges.



Analysis and determination.

41. The burden lies squarely on the prosecution to prove its case against the accused person beyond reasonable doubt. This doctrine on the standard and burden of proof is enshrined in Article 50(2)(a) of *the Constitution* and detailed in Sections 107(1), 108 and 109 of the *Evidence Act*. As Lord Sankey articulated in *Woolmington v DPP (1935) AC 462*:

“Throughout the web of the English Criminal Law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt...No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law...”

42. The onus of proof is always vested on the prosecution and at no time it ever shifts to the accused person. This burden is underpinned within the scope of the doctrine of presumption of innocence under section 50(2)(a) of *the Constitution* with the maxim that an accused person is presumed innocent until the contrary is proved. The burden of proof is more precisely explained under the provisions cited above in the *Evidence Act*. It is a burden of producing evidence by the state witnesses constituting of physical, oral and other documentary evidence to satisfy the trial of facts on particular issues which are in dispute as alleged against the accused person that the alleged offence indeed did take place and he/she is the one who committed the unlawful acts of omission or commission.

43. This requirement of the law in criminal law is the obligation vested with the state to meet the requirements of the standard and burden of proof on the facts in issue to be proved beyond reasonable doubt. So the duty to prove the guilt of the accused in Kenyan criminal law is always borne with the state and even in exceptional circumstances under section 111 of the *Evidence Act*, that burden is never watered down in any event. (See *Semfukwe and others v Republic (1976-1985)*, *Republic v Nyambura and four others (2001) KLR 355* and *Mbuthia v Republic (2010)*).

44. The evidential burden test vested with the prosecution is as formulated by the learned author in *Cross and Tapper on Evidence 12th Edn (Oxford: OUP, 2010 (reprint 2013))* thus:

“The test is to determine whether there is sufficient evidence in favour of the proponent of an issue, is for the judge to inquire whether there is evidence that, if untainted and uncontroverted, would justify men of ordinary reason and fairness in affirming the proposition that the proponent is bound to maintain, having regard to the degree of proof demanded by the law with regard to the particular issue. This test is easy to apply when the evidence is direct, for unless their cross examination were utterly shattering, the question whether witnesses are to be believed must be left to the jury, but it is necessarily somewhat vague when circumstantial evidence has been considered. In that case, little more can be done than inquire whether the proponent's evidence warrants an inference of the facts in issue, or opposition itself is itself conjectural his application must be dismissed. At this stage, the submission should succeed only if the circumstantial evidence raises no hypothesis consistent with guilt.”

45. For the prosecution to secure a conviction on the charge of murder contrary to Section 203 of the *Penal Code*, it must prove four essential elements beyond reasonable doubt: the fact of death, that death was caused by an unlawful act, that the accused committed the unlawful act, and that the accused had malice aforethought. It is now the duty of this court to test the evidence appropriately under the following subheads:



46. Starting with the first element regarding proof of death, this is conclusively established and not in dispute. The evidence from multiple prosecution witnesses, particularly PW2 (Isabella Mariachana Ondieki, the mother of deceased), PW3 (Prossy Nakimbigwe Ongeru widow of deceased), PW5 (Emily Cheronu, the Assistant Chief), and PW6 (PC Mathew Nudi) clearly establishes that Ferdinand Ongeru Ondieki died on or between 24th-27th July 2019.
47. Regarding the second element on whether the death was unlawfully caused, it is a presumption in law that any crime of homicide is unlawful unless that presumption is rebuttable by an accused person by providing sufficient evidence that the homicide so committed and complained of by the Prosecution, was excusable or justified. See the guidelines in *R versus Gusambizi S/o Wesonga* (1948) (15 EAC 65).
48. Causation is about drawing an inference from the evidence on the acts or omissions which can be stated to have resulted in the consequences, namely the death of Ferdinand Ongeru Ondieki. It is a central issue to the definition of murder under Section 203 of the *Penal Code* that the evidence must be led by the state connecting the acts or omission of the accused person to the death of the deceased. Indeed, it is the cause of death which is the link between the accused and the offence of homicide subject matter of these proceedings. The conclusion is more often than not drawn from direct and circumstantial evidence adduced by the state as against the accused person.
49. In this case, the prosecution's evidence on causation is primarily circumstantial but forms a compelling chain linking the accused to the deceased's death. PW1 (Ssenkaayi Jamiru) provided detailed testimony establishing that when the deceased Ferdinand Ongeru Ondieki threatened to surrender the accused to police for swindling him of over Kshs. 200,000 through fraudulent spiritual cleansing ceremonies, the accused instructed PW1 to hire a hitman to deal with the deceased. The accused provided Kshs. 50,000 for this purpose and devised the deceptive plan to lure the deceased to Kapsabet under the pretence of conducting special prayers.
50. The evidence reveals that on 24th July 2019, following the accused's instructions, PW1 lured the deceased to meet him at Kisumu Bus Park. They travelled together to Kapsabet where the hitman Oti was waiting. PW8 (Ayub Okwach Odhiambo), a bodaboda operator, testified that he took the deceased from his house in Dago to the bus park, noting that the deceased was wearing black sports kit and carried a black backpack, items later found in the accused's possession.
51. After the killing was completed, PW1 immediately informed the accused who was then in Uganda that the job of killing the deceased had been successfully accomplished, to which the accused expressed satisfaction and gratitude. The accused subsequently received and retained the deceased's personal effects brought by PW1 as proof of the execute murder.
52. The medical evidence supports this causal chain. PW9 (Dr. Kennedy Otieno), the pathologist who performed the post-mortem examination, found that death occurred within 72 hours of the body's discovery on 27th July 2019. The deceased had suffered multiple cut wounds and a deep 24cm incised wound on the neck that severed the trachea and right carotid artery. The pathologist concluded that the cause of death was severe blood loss and aspiration of blood, resulting from homicidal cut throat by a right-handed person from behind with a poorly restrained head. This evidence is consistent with a planned execution rather than spontaneous violence.
53. The recovery of the deceased's personal effects from the accused's possession provides further evidence of causation. PW14 (CPL Vincent Langat) testified that when the accused was arrested in Kitui, police recovered from his business premises the deceased's backpack, Tecno phone/tablet, and power bank. These items were positively identified by multiple witnesses including PW2 (mother), PW3 (widow), PW4 (Kennedy Ochieng), and PW7 (Eunice Awuor Ager) as belonging to the deceased. Significantly,



- PW3 identified the Tecno tablet by distinctive crack marks she had made when trying to prise it open with a knife.
54. PW12 (Chief Inspector Francis Munyi) from the Digital Forensic Unit testified that forensic examination revealed the deceased's tablet had been wiped clean with no retrievable data, indicating deliberate destruction of evidence. This supports the prosecution's case that the accused was involved in covering up the murder.
 55. The call data records provide additional circumstantial evidence linking the accused to the murder. PW10 (Vincent Mangu), Airtel liaison officer, testified that phone number 0787-182-013, though registered in the deceased's name, was primarily used by the accused for exclusive communication with the deceased. The phone's movement patterns between Kisumu and Kitui were consistent with the accused's business operations, and it went "off the grid" during periods when the accused was in Uganda.
 56. Considering the evidence holistically, the prosecution has established beyond reasonable doubt that the accused's acts of planning, financing, and orchestrating the murder conspiracy were the operative cause of Ferdinand Ongeri Ondieki's death. Under Section 213 of the *Penal Code*, the death need not be caused by the immediate act of the accused. The unbroken chain from the accused's instruction to hire a hitman, through provision of payment and the deceptive plan to lure the deceased, to the subsequent possession of the deceased's effects as proof of death, establishes causation beyond reasonable doubt.
 57. The fourth element requires proof that it was the accused person who committed the unlawful act causing death. In this case, while the accused did not personally inflict the fatal injuries, the prosecution's case is that he was the principal orchestrator of a murder conspiracy under the doctrine of joint criminal enterprise.
 58. The prosecution's case rests primarily on the testimony of PW1 (Ssenkaayi Jamiru), who confessed to being an accomplice in the murder and implicated the accused as the mastermind. The correct judicial treatment of accomplice evidence in criminal cases was best captured in *Waringa v Republic* [1984] KLR 617 where the Court of Appeal laid down the following three principles in considering accomplice evidence:
 - a. When considering the evidence of an accomplice, the first duty of the Court is to decide whether the accomplice is a credible witness.
 - b. If the accomplice evidence is credible, the Court should consider if there is corroborating evidence. This step only follows if the Court finds the accomplice is a credible witness. The corroboration which should be looked for when considering the evidence of an accomplice is some additional evidence rendering it probable that the story of the accomplice is true and that it is reasonably safe to act upon it.
 - c. The corroboration must be independent evidence which affects the Accused Person by connecting him or her or tending to connect him or her with the crime."



59. Later, in *Karanja & Another v Republic* [1990] KLR, the Court of Appeal, while affirming the principles laid down in *Waringa* (supra), suggested that there may be circumstances where corroboration may be unnecessary:

“Although there may be cases of an exceptional character in which an accomplice’s evidence alone convinces the court of the facts required to be proved, the uncorroborated evidence of such a witness should generally be held to be untrustworthy for three reasons. The accomplice is likely to swear falsely in order to shift the guilt from himself. As a participator in the crime, he is an immoral person who is likely to disregard the sanctity of an oath. He gives his evidence either under a promise of a pardon or in expectation of an implied promise of pardon and is therefore liable to favour the prosecution..... An accomplice is of course a competent witness but corroboration should be found for his evidence before a conviction can be based upon it.”

60. In cementing this position and the treatment of such an element in Kenya, the court in *Republic v Jane Muthoni Mucheru & Isaack Ng’ang’a Wambui alias Gikuyu (Criminal Case 45 of 2018)* [2021] KEHC 7647 (KLR) stated as follows:

“Hence, the law and practice on accomplice evidence as it exists in Kenya today is that while an accomplice is a competent witness, accomplice evidence should be received with great caution, and where uncorroborated, should have little weight. As such, our decisional law has clarified that while a witness’s status as an accomplice does not render his or her evidence unreliable per se, a Trial Court must exercise appropriate caution in assessing his or her evidence. In particular, when weighing the probative value of accomplice evidence, the Trial Court is obligated to carefully consider the totality of the circumstances in which the evidence was tendered. In particular, consideration should be given to circumstances showing that accomplice witnesses may have motives or incentives to implicate the accused person or to lie. This judicial treatment of accomplice evidence is based on the fear that an accomplice may be motivated to falsify his testimony in the hope of securing leniency for himself or herself. However, the dangers associated with accomplice evidence are greatly reduced or eliminated where the key aspects of the accomplice evidence are corroborated. The dangers are also substantially mitigated where, as here, the accomplice testifies after he has already accepted a plea bargain, has been sentenced, and is already serving his sentence.”

61. As to the type of corroborative evidence would suffice, a definition was given in *R v Taibali Mohamedbhai* (1943) 10 EACA 60 where the Court said:

“What is required is that there should be independent testimony corroborative of the evidence of the accomplice in some material particular implicating the accused or tending to connect him with the crime with which he is charged. The principle is that if an accomplice is so corroborated not only may that part of his evidence which is corroborated be relied on but also that part which is not corroborated.”

62. In *United States v Murphy*, 253 Fed. 404, 406 (N.D.N.Y. 1918), the US Supreme Court defined corroboration with respect to accomplice evidence thus:

“Corroborating evidence is evidence which is independent of the evidence of an accomplice, and which, taken by itself, leads to the inference, not only that a crime has been committed, but that the person on trial was implicated in it; or it must be evidence which corroborates



as to some material fact or facts which go to prove that the person on trial was connected with the crime.”

63. In assessing PW1's credibility, I find that Ssenkaayi Jamiru demonstrated reliability as a witness through several compelling factors. First, he voluntarily confessed to police and subsequently made a formal confession before a Principal Magistrate in Nyando, indicating a genuine willingness to take responsibility for his actions rather than attempting to evade culpability. Significantly, he had already entered into plea bargain negotiations with the Republic and been sentenced to 15 years' imprisonment before testifying in this case, thereby substantially reducing any incentive he might have had to falsely implicate the accused in hopes of securing leniency for himself. His testimony was notably detailed, consistent throughout cross-examination, and internally coherent, with specific facts that could be independently verified. Furthermore, PW1 demonstrated full cooperation with the investigating officers, voluntarily leading them to Kitui where the accused was arrested, and facilitating the recovery of crucial evidence. Most importantly, he expressed genuine remorse for his participation in the crime, stating that he simply wanted to pay for his crimes and asked that his co-conspirator similarly pays for his crime, indicating a contrite spirit rather than malicious intent to implicate an innocent party.
64. While PW1's credible testimony alone could theoretically support a conviction under the principles established in exceptional cases, the prosecution nonetheless provided substantial independent corroborative evidence that reinforces the reliability of his account. The recovery of the deceased's personal effects from the accused's possession occurred exactly as described by PW1, with multiple family members and colleagues positively identifying these items as belonging to Ferdinand Onger Ondieki. The call data records obtained from both Airtel and Safaricom networks corroborated PW1's detailed account of the exclusive communication pattern between the accused and the deceased through the phone registered in the deceased's name but operated by the accused. Immigration records provided by PW11 confirmed the accused's travel movements to and from Uganda precisely as testified by PW1, supporting the timeline of events and the accused's whereabouts during the planning and aftermath of the murder. Digital forensic analysis also revealed that the deceased's tablet had been formatted and wiped clean of all data, supporting PW1's testimony about the deliberate destruction of evidence following the killing. Additionally, the recovery of witchcraft paraphernalia and advertising materials from the accused's business premises in Kitui corroborated PW1's detailed account of their fraudulent spiritual healing business that formed the foundation for the deceased's exploitation and ultimate murder.
65. For the charge of murder to succeed, it must be proved that they acted with malice aforethought. Section 206 of the [Penal Code](#) provides circumstances from which malice aforethought may be inferred. They are:
- “(a) An intention to cause 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 intention to commit a felony;
 - (d)



66. Having considered the comprehensive evidence presented in this case, I find that the accused person clearly harbored malice aforethought, which can be definitively inferred from his calculated and premeditated actions in orchestrating the murder of Ferdinand Ongeru Ondieki. The accused person's elaborate conspiracy to eliminate the deceased was motivated by multiple converging factors: his urgent need to avoid repaying the substantial sum of over Kshs. 200,000 that he had fraudulently obtained from the deceased through fictitious spiritual cleansing ceremonies involving a metallic box and promises of supernatural wealth multiplication; his desperate attempt to prevent criminal prosecution following the deceased's escalating threats to surrender him to police authorities; and his determination to protect his fraudulent herbal medicine business from exposure as a witchcraft operation. The evidence demonstrates that the accused's actions were tainted with deliberate and calculated indifference to the inevitable fatal outcome of his meticulously planned scheme. Further, the systematic nature of the conspiracy; involving the specific instruction to hire a hitman, the provision of Kshs. 50,000 payment with explicit instructions that it should only be paid after confirmation of death, the devising of an elaborate deception to lure the deceased to a remote location under the pretense of conducting special prayers, and the subsequent possession and concealment of the deceased's personal effects as proof of the completed murder, all point to a mind that had formed a settled intention to cause death. In *Nzuki v Republic* [1993] KLR 171, the Court of Appeal held that malice aforethought can be inferred from the acts of an accused person. The Court elaborated as follows:

“Malice aforethought” is a term of art and is either an express intention to kill, as could be inferred when a person threatens another and proceeds to produce a lethal weapon and uses it on his victim; or implied, where, by a voluntary act, a person intended to cause grievous bodily harm to his victim and the victim died as the result.”

67. Applying this legal framework, the accused's conduct reveals a calculated progression from financial desperation to murderous intent. When faced with the deceased's legitimate demands for repayment of over Kshs. 200,000 and credible threats of police surrender, the accused made a deliberate choice to eliminate the deceased rather than face the consequences of his fraudulent activities. His specific instruction to PW1 that payment to the hitman should only be made after confirmation that the deceased had been killed constitutes direct evidence of intention to cause death as contemplated under Section 206(a). Furthermore, his immediate expression of satisfaction and gratitude upon receiving confirmation of the successful execution, coupled with his calculated retention of the deceased's personal effects as proof of the completed murder, demonstrates not merely knowledge that his acts would probably cause death under Section 206(b), but a settled intention to achieve that fatal outcome, thus satisfying the malice aforethought requirement beyond any reasonable doubt.

68. In the testimony of PW1 there is knowledge and permission on the part of the accused which constitutes mens- rea to commit the offence of homicide against the deceased. Two principles are at play in this case. First is that the accused person was in a position to forbid the unlawful act which resulted in the death of the deceased but from the flow of events as reiterated by PW1 he is said to have permitted it to happen. Secondly the accused had powers including resources to forbid the unlawful act of planning and executing the death of the deceased. He cannot therefore be allowed to plead lack of knowledge that the Act was being committed in his absence. While he was in Uganda as he wants this court to believe all necessary steps had been set in motion for the death of the deceased to be initiated and completed with finality. In the case of *Ali Islam v Republic* 1967 EA 246 it was held that an aider and abettor becomes a principal in the commission of an offence by participating in the commission of the offence in the full knowledge that it is an offence. In other words knowledge is the mens rea required to link the aider and abettor to the commission of the offence. The knowledge and omission on the part of the accused person is very clear from the testimony of PW1 that in planning and premeditating



this offence he failed to take responsibility to do something positive to save the life of the deceased but instead he endangered his life when he went ahead to hire the hitmen with full knowledge that any unlawful act involving grievous harm on his body would expose him to danger as it did if the post mortem report by the pathologist is anything to go by given its credibility and reliability on the cause of death.

69. Regarding the accused's defence of alibi, I find it wholly unconvincing and contradicted by the overwhelming evidence. While immigration records confirm the accused was in Uganda during certain periods, this does not absolve him of criminal responsibility as the principal architect of the murder conspiracy. The evidence clearly establishes that modern communication technology enabled the accused to orchestrate and supervise the murder from Uganda, maintaining constant contact with PW1 through the Airtel phone and expressing satisfaction upon receiving confirmation of the deed's completion.

70. This alibi defence in which the accused person has cleaned on was destroyed by the testimony of PW1 grounded under Section 21 of the *Penal Code* which reads “When two or more persons from a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was probable consequence of the prosecution of such purpose each of them is deemed to have committed the offence”

In the case of *Ombati & 3 Others v Republic (2025) KECA 469 (KLR)* stated “The evidence implicating the four appellants show that they were all acting in concert in attacking the deceased. They were no doubt pursuing an unlawful purpose of assaulting the deceased of which death was a probable consequence. In the circumstances, the appellants must all be deemed to have had the common intention of committing the offence of murder which arose from their common purpose of attacking the deceased. From the foregoing, all the ingredients of the offence of murder were proved against each of the appellants to the required standard. Their conviction was, therefore, safe.”

The essence of this case taken in its totality shows an entrenched common intention of the co-accused with the accused person before court who having a common purpose to commit the crime of murder against the deceased acted together, pursued the common objective, contracted reliable killers, provided the necessary resources and ultimately the mission was accomplished in violation of Article 26 of *the constitution* on the right to life as read with Section 203 of the *Penal Code*.

71. The chain of probative evidence presented by the prosecution including one of their star witnesses Sankanyi Jamiru who also happened to be the co-accused paints graphically an offence committed placing the accused person at the scene of the crime within the scope of the principles in *Shivaji Sahabrao Bobade vs State of Maharashtra (1973) 2 SCC 793* where the court observed “Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between “may be” and “must be” is long and divides vague conjectures from sure conclusions.”

- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- (3) the circumstances should be of a conclusive nature and tendency,
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human



probability the act must have been done by the accused. (See also the Case of Erenest Asami Bwire Abanga alias Onyango v Republic Nairobi CACRA No. 32 of 1990)

72. In the case at bar, PW1 presented graphic chronological evidence as to the relationship between the deceased and the accused person which started in earnest when he sought assistance from him due to his knowledge on non-conventional medicine. This relationship created strong bonds of friendship and trust that the deceased family was to be made known of the aforesaid relationship and the great support likely to accrue from the accused person. The prosecution evidence portrayed the accused as a person with knowledge and immense skills in the field of herbal medicine and magical powers to deal with any such calamity or deceases bedevilling the deceased. How their friendship soured to a level where the accused person started harbouring and encompassing an intention to cause death or grievous harm to the deceased is very incomprehensible save for human fallibility. The motive for the offence of murder is clearly laid bare by the testimony presented before this court by PW1 a close ally to the accused to the accused person. According to PW1 there was so much animosity as between the deceased and ad the accused and there was no other option but to plan, premeditate, and execute the murder by hiring the hitmen to fulfil this unlawful mission on behalf of the accused. It is trite law that proof of motive is not sine qua non in a case of murder. However, in a case based purely on circumstantial evidence, motive if properly established, assumes great significance and would definitely provide an important corroborative link in the chain of incriminating circumstances and strengthen the case of prosecution.
73. The court in *Shambu Nath Mebra v State of Ajmer AIR 1956 SC 404* it is the duty of the prosecution to proof that the accused person before court committed the crime of murder against the deceased. This is the dicta in the above case which states as follows: This lays down the general rule that in a criminal case the burden of proof is on the prosecution and section 106 equivalent to our Section 107 (1) of the *Evidence Act* it is not intended to relive it of that duty. On the contrary it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are especially within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word “especially” stresses that. It means facts that are pre-eminently or exceptionally within his knowledge. The burden is on the prosecution and never shifts. It is also settled law in our criminal justice system that presumption of facts is a rule in the law of *Evidence Act* Cap 80 of the Laws of Kenya that a fact otherwise doubtful may be inferred from certain other proved facts. When inferring the existence of a fact on how this murder was committed by the accused the set of facts of evidence by PW1 is linked along with that of PW2, PW3, PW4, PW5, PW6, PW7, PW8, & PW9. The court exercised its jurisdiction from these facts evaluating it in a process of legal reasoning and reached a logical conclusion that the most probable position of beyond reasonable doubt to place the accused at the scene of the crime.
74. The accused's characterization of his business as legitimate traditional herbal medicine is thoroughly contradicted by the evidence. The recovery of witchcraft paraphernalia, the elaborate deception involving a metallic box supposedly containing spirit money, and the fraudulent spiritual cleansing ceremonies costing over Kshs. 200,000 clearly establish that this was a criminal enterprise designed to defraud vulnerable victims through exploitation of their spiritual beliefs.
75. Having carefully considered all the evidence presented, the testimony of witnesses, the documentary evidence including call data records and immigration records, the medical evidence from the post-mortem examination, and the comprehensive submissions from both learned counsel, I am satisfied beyond any reasonable doubt that the prosecution has successfully proved all essential elements of the charge of murder namely (a) that the deceased Fedinard Ongeri Ondiek is dead (b) That the death was unlawfully caused (c) that the death was caused with malice aforethought contrary to Section 206 of the *Penal Code*. (d) That the accused person participated in premeditating, planning, and executing



the murder by engaging third parties to do it on his behalf and finally there is established evidence of the doctrine of common intention. I therefore find the accused person Asuman Mawanda Guilty of the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).

Ruling On Sentencing

76. The accused person herein was on 26th January 2021 found guilty of the offence of murder and convicted accordingly.
77. In mitigating on behalf of the accused person, learned counsel Mr. Mwaka submitted that the accused person is a first offender, he is remorseful and regrets the offence. That the accused has been in custody since 2019, which entitles him trial remand credit period. Whereas Learned Counsel Ms. Kirenge urged the court to take into account the aggravating factors which goes to planning and executing the offence of homicide under section 203 of the [Penal Code](#).
78. Having carefully considered the aggravating and mitigating factors, I find that this case calls for a substantial custodial sentence that reflects the gravity of the premeditated murder conspiracy. The systematic fraud, calculated planning to eliminate the victim to avoid consequences, and use of a hired killer demonstrate a high level of moral culpability.
79. The accused's actions in orchestrating this murder conspiracy for financial gain and to evade justice strike at the foundation of public safety and trust. A sentence that adequately reflects society's condemnation of such calculated criminal conduct is warranted.
80. Taking into account the principle of proportionality and the need for deterrence, rehabilitation, and community protection, I sentence the accused Asuman Mawanda to twenty-five (25) years imprisonment with effect from the date of his arrest i.e. 10th October, 2019. Orders accordingly. 14 days Right of Appeal explained.

DATED AND SIGNED AT ELDORET THIS 8TH DAY OF JULY, 2025

.....

R. NYAKUNDI

JUDGE

In the Presence of

Mr. Mwaka Advocate for the Accused

M/s Kirenge for the State

