



Republic v Masinde alias Micah Wafula Barasa (Criminal Case E004 of 2022) [2025] KEHC 9896 (KLR) (10 July 2025) (Ruling)

Neutral citation: [2025] KEHC 9896 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
CRIMINAL CASE E004 OF 2022**

**RK LIMO, J
JULY 10, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

MICAH WAFULA MASINDE ALIAS MICAH WAFULA BARASA ACCUSED

RULING

1. Micah Wafula Masinde alias Micah Wafula Barasa, the accused herein is charged with the offence of Murder contrary to section 203 as read with section 204 of the [Penal Code](#). The particulars are that on 17/2/23 at Kiminini Trading Centre within Trans-Nzoia he murdered Edwin Wekesa Kibebe.
2. The accused denied the charge and the prosecution has called 3 witnesses one of whom is the Doctor (PW1) who testified that he conducted a post mortem examination on the body of the deceased and opined that the cause of death was a head injury secondary to assault by a blunt object. He tendered post mortem report as PExhibit 1.
3. This court is now being called upon to determine based on the evidence tendered if the evidence tendered is sufficient to place the accused person on his defence.
4. The prosecution called the Doctor as observed above, one civilian witness (PW2) and the investigating officer (PW3) in the case.
5. The evidence of PW2 lacked any probative value to the prosecution's case because she did not witness the murder and had no knowledge of who did it.
6. It is quite apparent that the evidence of the Doctor and the investigating officer required corroboration for the prosecution's case against the accused to stand. Unfortunately, the evidence given by the investigating officer with respect to the reasons that informed her to charge the accused with the offence



he faces was based on the evidence of a witness not called to testify. The investigating officer stated that there was an eye witness to the murder incident named Esther Naliaka.

7. In the absence of the alleged eye witness, the information received by the investigating officer and evidence tendered by her is rendered hearsay and inadmissible in evidence.
8. This court finds that the evidence tendered by the prosecution against the accused is so weak that even if the accused were to be placed on his defence and elects to stay silent, this court would not sustain a conviction against him simply because of lack of sufficient evidence.

The evidence tendered by the prosecution has simply failed to reach the threshold required to place the accused on his defence. This court finds that the accused has no case to answer and under section 206 of *Criminal Procedure Code* he is hereby acquitted of the charge of murder and shall be set free unless lawfully held.

DELIVERED, DATED AND SIGNED AT KITALE THIS 10TH DAY OF JULY , 2025.

HON JUSTICE R.K. LIMO

KITALE HIGH COURT

Ruling delivered in open court

In the presence of;

Wekhuyi for accused – absent

Mr Korir for the State

Accused – present

Duke/Chemosop – court assistants

