



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Wambui & another (Criminal Case 11 of 2019)
[2024] KEHC 7546 (KLR) (17 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 7546 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 11 OF 2019
DO CHEPKWONY, J
MAY 17, 2024**

BETWEEN

REPUBLIC STATE

AND

LUCY WANJIKU WAMBUI 1ST ACCUSED

CECILIA WANJIRU NGANGA 2ND ACCUSED

RULING

1. The accused persons, Lucy Wanjiku Wambui And Cecilia Wanjiru Nganga are charged with the offence of Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).

The particulars of offence are that:-

“On 18th day of January, 2019 at Kamwangi town in Gatundu North Sub County within Kiambu County, the accused persons jointly murdered Vincent Mwangi Karanja.”

2. The accused persons were first arraigned in court on February 18, 2017 whereby the charge was read and full particulars explained to them in Kiswahili language which they each understand and each pleaded “Not Guilty” to the offence of murder. The matter was then set down for hearing and the prosecution called ten (10) witnesses being Dr. John Mathaiya (PW1), Charles Mburu Wambui (PW2), Harrison Kimotho (PW3), John Karanja Ndungu (PW4), Lucy Mugure Mwangi (PW5), Sarah Wairimu (PW6), James Kimathi Riungu (PW7), John Kiongi Ngamani (PW8), No. 11xxxx - PC Robert Kilonzo PW9, and Susan Wanjiru Ngugi (PW10) in support of its case.



3. This Ruling is in respect of whether the accused persons have a case to answer or not. It is important to start with the understating what amounts to a *prima facie case*. This was defined by the Court in the case of [Republic -vs- Abdi Ibrahim Owl](#) [2013] eKLR as follows: -

“*Prima facie*” is a Latin word defined by Black’s Law Dictionary, 8th Edition as “Sufficient to establish a fact or raise a presumption unless disproved or rebutted”. “*prima facie case*” is defined by the same dictionary as “The establishment of a legally required rebuttable presumption”

4. The procedure of determining whether an accused person has a case to answer should ensure that the details of evidence should not be so lengthy so as to avoid compromising the quality of evidence that the defence will mount. This was discussed in the case of [Republic -vs- Stephen Chomba Kamau](#) (2021) eKLR, while citing the case of [Republic -vs- Samuel Karanja Kiria](#) [2009] eKLR, Justice J.B Ojwang (as he then was) stated:-

“The question at this stage is not whether or not the accused is guilty as charged but whether there is cogent evidence of his connection with the circumstances in which killing of deceased occurred. That the concept of prima facie case dictates as a matter of law that an opportunity created by this court for the accused to state his own case regarding the killing. The governing law on this point is well settled ... The Court of Appeal is Criminal Appeal No. 77/2006 expressed that too detailed analysis of evidence stage at no case to answer stage is undesirable it the court is going to put accused on his defence as too much details in the trial court’s ruling could then compromise the evidentiary quality of the defence to be mounted.” (Emphasis added).

5. The court has considered the evidence of all the prosecution’s witnesses but shall refrain from delving into the testimonies of each of the witnesses so as to avoid compromising the evidence to be adduced by the accused persons.
6. Having considered the prosecution’s evidence, the Court is satisfied that the prosecution has established a prima facie case to warrant a finding that the accused persons have a case to answer for the charge of murder and the accused persons are thus placed on their defence.

It is so ordered.

RULING DELIVERED, DATED AND SIGNED THIS 17TH DAY OF MAY 2024.

D. O. CHEPKWONY

JUDGE

In the presence of:

M/S Ndeda counsel for the State

Mr. Munene counsel for 1st accused person

M/S Ojiambo counsel for 2nd accused person

Court Assistant - Martin

