



Republic v Mwaura (Criminal Case 06 of 2019) [2024] KEHC 9675 (KLR) (9 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9675 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CRIMINAL CASE 06 OF 2019
SN MUTUKU, J
JULY 9, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

MORRIS MBUGUA MWAURA ACCUSED

RULING

1. This Ruling relates to murder charges brought against the accused person. He is charged with the murder of Pricillah Wangeci Wanjiku. The charges are framed as follows:
 - i. Murder contrary to section 203 as read with section 204 of the *Penal Code* (Cap. 63) Laws of Kenya.
 - ii. The particulars of the offence are that on the 11th February 2018 at Nkoroi Area in Ong'ata Rongai in Kajiado North Sub-County within Kajiado County with others before the court jointly murdered Pricilla Wangeci Wanjiku
2. The circumstances of this offence are related to High Court Criminal Case No. 5 of 2018. It is an old matter that was partly heard by Justice Mwita who had taken evidence of 15 witnesses. I took over the matter on 8th November 2021. I took evidence of two witnesses before the prosecution closed its case.
3. I have considered all the evidence tendered. It shows that on 10th February 2018, police at Ongata Rongai Police Station received a report from Mwaura, A2, that the deceased, wife to one of the sons of Mwaura who had come visiting, had committed suicide in her house. Police accompanied the reportee to the scene at Kanisani Road Nkoroi area. A2 opened the door which was locked from outside and police gained entry through the rear entrance. They found the body of the deceased tied to a bed post. The body was in a kneeling position on a well laid out bedsheet, as described by PC Joseph Karanja (PW12). It was facing the wall. The mouth of the deceased was covered with white tape. On the bed were keys, telephone and roll of tape.



4. The evidence from Pauline Njeri Nderitu, PW8, a sister-in-law of the deceased, is that on 10th February 2018, she persuaded the deceased to spend the night at her, PW8's house, because the deceased's house had been broken into by robbers earlier on and PW8 thought it might not be safe for the deceased to go to spend the night there alone. The following morning on 11th February 2018, the deceased woke up early and went to her house. She was not seen by any of the relatives the whole day until later that evening around 4.00pm when her body was found inside her house. It was thought that the deceased had committed suicide.
5. The evidence of Dr. Njau Mungai, PW14, who examined the body of the deceased is that he conducted the post-mortem on the body of the deceased at the City Mortuary. The doctor testified that the mouth of the deceased was mask-taped; there were blood stains in the nostrils and the eyes were swollen; that the face was congested; there was an electrical cable measuring 150cm around the neck and there were ligature impressions on the neck.
6. The doctor found that the deceased was pregnant with two foetuses, male and female, 6 months. The opinion of the doctor was that the deceased died of ligature strangulation and chest compression. According to the doctor, the chest compression cannot be self-inflicting.
7. I have read the entire file and all the evidence. I have considered the submissions by the defence counsel who has summarized the evidence and submitted that from the facts of the case, it is clear that the cause of death is clearly suicide which is confirmed from the state the body was found and the suicide note recovered. Counsel submitted that the prosecution has failed to establish a prima facie case against the accused persons. Counsel urged the court to find that the accused persons have no case to answer and acquit them under section 306 (1) of the [Criminal Procedure Code](#).
8. I have considered the evidence. The pathologist ruled out suicide as the cause of death. The deceased used to live in Dandora with her mother and was visiting her in laws. Evidence shows that all the family members lived in the same compound at their parents home.
9. I am persuaded to place the accused person on his defence, which I hereby do. He is informed of his right to adduce evidence in his defence and to call witnesses. Under section 306 (2) of the [Criminal Procedure Code](#), the accused is required to inform the court how he wishes to testify in his defence, either under oath or without taking oath.
10. Orders shall issue accordingly.

DATED, SIGNED AND DELIVERED THIS 9TH DAY OF JULY 2024.

S. N. MUTUKU

JUDGE

