



REPUBLIC OF KENYA



**Republic v Mugambi (Criminal Case 29 of 2015)  
[2024] KEHC 9881 (KLR) (8 August 2024) (Ruling)**

Neutral citation: [2024] KEHC 9881 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL CASE 29 OF 2015  
EM MURIITHI, J  
AUGUST 8, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**JOSEPH GIKUNDI MUGAMBI ..... ACCUSED**

**RULING**

1. Joseph Gikundi Mugambi is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) with particulars that he “on the 13<sup>th</sup> day of July 2013 at Shauri Estate within Mutuati Market, Kabachi location, Igembe North Sub-County within Meru County jointly with another not before the Court murdered Selesio Ntarangwi.” The accused person pleaded not guilty to the charge and the matter proceeded to trial. The prosecution called 3 witnesses.
2. Bearing the elements of the offence of murder in mind, the Court has, as required under section 306 of the [Criminal Procedure Code](#), considered whether there is the evidence that the accused person committed the offence, on a *prima facie* basis within the meaning of *Ramanlal T. Bhatt v R* [1957] EA 332, 335 as “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.”
3. The court takes the view that a *prima facie* case has been established and, as held in *Kibera Karimi v. R* [1979] KLR 36 (Trevelyan & Todd JJ), it is not appropriate to give full reasons for that decision so as not to prejudice the fair trial of the case by giving the impression that the court has already made up its mind without hearing the defence. See also *Festo Wandera Mukando v R* [1976 – 80] KLR 1626 and *Antony Njue Njeru v R*, Nairobi C.A. Cr. Appeal No. 77 of 2006 and the [Kenya Judiciary Criminal Procedure Benchbook, 2018](#) at 99-100.



## **Orders**

4. Consequently, the accused shall be put on his defence in accordance with section 306 (2) of the *Criminal Procedure Code*, and his rights during the defence hearing shall be explained.

Order accordingly.

**DATED AND DELIVERED ON THIS 8TH DAY OF AUGUST 2024.**

**EDWARD M. MURIITHI**

**JUDGE**

### **Appearances**

**Mr. Masila for the DPP/Prosecutor.**

**Mr. Ngéntu for the Accused.**

