



**Republic v Wanene (Criminal Case 20 of 2015)  
[2023] KEHC 22288 (KLR) (19 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22288 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MURANG'A  
CRIMINAL CASE 20 OF 2015  
J WAKIAGA, J  
SEPTEMBER 19, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JULIUS MUCHIRI WANENE ..... ACCUSED**

**RULING**

1. The accused was charged with the offence of murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#) the particulars of which were that on the April 23, 2015 at Muruku trading centre, Kandara Sub County within Muranga County murdered Michael Muturi Nyoike.
2. He pleaded not guilty to the charges and to prove its case the prosecution called and examined a total of three (3) witnesses none of who testified before me.
3. For record purposes the accused took his plea on May 12, 2015 before Waweru J and on June 5, 2017 his trial commenced with two witnesses (PW1 and PW2) and on February 8, 2022 Justice Kimondo gave directions under section 200 of the CPC for the matter to proceed from where it had reached and proceeded to hear one witness (PW3), upon which Ms Otieno the Learned Prosecutor informed the Court that she was unable to secure eye witnesses and opted to close the prosecution case.
4. The prosecution proceeded to file submissions on no case to answer while the defendant did not file any as at the time when Kimondo J proceeded on transfer.
5. The trial Judge having ceased to exercise jurisdiction, this file was placed before me under the provision of Section 200(1)(b) and 306 of the [Criminal Procedure Code](#).
6. For record purposes, I did not hear any of the three prosecution witnesses but have read the recorded proceedings and the submissions for purposes of this Ruling.



## Submissions

7. It was submitted by the prosecution that the fact of death was proved through the evidence of the three witnesses as well as the post-mortem report produced by consent. It was contended that PW1 testified that the accused met with the deceased over some debt which he promised to repay as he did not have money at the time only for him to hit the same on the right chick before removing a knife from his wrist and stabbing the deceased before running away from the scene. PW2 called the police who arrived in about ten minutes. The accused was thereafter arrested by members of the public and brought back to the scene. This evidence was corroborated by PW3 the Investigating Officer.
8. It was submitted that malice aforethought was established through the evidence of PW1 and PW3 and in support thereof the case of [Republic v Mary Wawira Ngari \[2021\] eKLR](#) was tendered in support.
9. At this stage all that the Court is required to do is to establish if a prime facie case as defined in *Bhatt v Republic [1957] EA 332* is established, that is to say that this Court will be willing to convict the accused upon the evidence on record should he opt not to say anything in his defence.
10. The Court is discouraged from giving a detailed analysis of the evidence should it opted to put the accused on his defence as was stated in the case of [Festo Wandered Mukando v the Republic \[1980\] KLR 103](#) where the Court advised against giving reasons for holding that an accused has a case to answer and that where it is rejected the Court should say no more that it is.
11. This was the position taken by this Court in [R v Jackson Muimi Tuma \[2018\] eKLR](#) in which it quoted with approval Justice JB Ojwang as he then was in *R v Samuel Karanja Kiria [2009] eKLR* to the effect that too detailed analysis of evidence at this stage is undesirable.
12. I have looked at the evidence on record and without saying much thereon, is satisfied that a prima facie case has been made to enable me put the accused on his defence which I hereby do. The accused is advised of his rights to remain silent under Article 50 of the [Constitution](#) and Section 306 of the Criminal Procedure Code and is called upon through the advised of his Advocate to choose how he intend to defend himself.

**DATED, SIGNED AND DELIVERDD AT MURANGA THIS 19<sup>th</sup> DAY OF SEPTEMBER 2023**

**J. WAKIAGA**

**JUDGE**

In the presence of:

Mr. Mbuthia Advocate for Accused

Jackline – Court Assistant

