



**Republic v Karande aka Payani (Criminal Case E004 of 2022)  
[2024] KEHC 15585 (KLR) (3 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15585 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KILGORIS  
CRIMINAL CASE E004 OF 2022  
F GIKONYO, J  
DECEMBER 3, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**HARUN LETEIPA KARANDE AKA PAYANI ..... RESPONDENT**

**RULING**

1. The accused person herein, Harun Leteipa Karande Alias Payani, is charged with the offence of Murder contrary to section 203 as read with section 204 of the *Penal Code*.
2. The particulars were that on 13/03/2022 at Osupuko Location, in Transmara West sub-county within Narok County, murdered Andrew Lemaiyan Karioki (hereinafter referred to as the deceased).
3. The accused person took plea on 07/06/2022 denying the offence and the case was set down for hearing.
4. The prosecution's case summarized that on 13.03.2022, the deceased attended a neighbour's funeral at Kipshe's homestead. The deceased requested PW1 to ferry him with his motorbike from the funeral place to the Hill Spring Area. On their way, they met two people near a bump. PW1 slowed down. Two people among them the accused stopped the motorcycle. PW1 did not stop. The accused ran after them and held PW1's jacket. About 3 meters he heard the pillion passenger groaning. He had been hit with a 'fimbo'. He asked PW1 to stop. The pillion passenger alighted and went to the two people. They quarreled with the accused and they started fighting. The pillion passenger (deceased) wrestled the accused to the ground. The accused removed his knife and stabbed the deceased two times in the chest and stomach. The deceased screamed saying ' nimekufa' and jumped over the fence into a neighbour's home. The accused started chasing PW1. PW1 went into hiding until when a crowd came after a lady screamed. It was dark but he recognized the accused using his motorcycle headlights. PW1 went to where the deceased was and realized that the deceased had died.



### **Analysis And Determination.**

5. The Prosecution has tendered evidence by calling six (6) witnesses and the question now at this stage, for this court, is to determine whether the prosecution has established a prima facie case against the accused person to warrant him to be placed on his defence.
6. The burden of proof lies on the prosecution throughout the trial; it never shifts to the accused person to prove his innocence. This guarantees fair trial for the accused person stipulated in Article 50 (2) of the Constitution.
7. Has the prosecution established a prima facie case against the accused person to warrant him to be placed on his defence?
8. A prima facie case is established where the evidence tendered by the Prosecution is sufficient on its own for a court of law to return a guilty verdict. And, the accused will be put on his defense. Republic vs Abdi Ibrahim Owi [2013] eKLR, Ramanlal Trambaklal Bhatt Vs R [1957] E.A 332 at 335
9. But, where no prima facie case has been established by the prosecution, the accused is acquitted. S.306 (1) of the Criminal Procedure Code:
10. The trial court is however cautioned that at this stage, it should not make definitive findings should it conclude that the accused has a case to answer. Festo Wandera Mukando Vs Republic [1980] KLR 103.
11. PW1 witnessed the deceased being stabbed by the accused. Having considered the evidence of the six (6) prosecution witnesses, and without delving into the depths of their testimonies, this court is satisfied that the Prosecution has established a prima facie case against the accused person to warrant him to be placed on his defence.
12. Accordingly, this court, therefore, finds that the accused herein has a case to answer and he is therefore placed on his defence.
13. The provisions of Section 306(2) of the Criminal Procedure Code and Article 50(2)(i)(j)(k) of the Constitution have been explained to the accused person in the presence of his advocate Mr. Samoita.
14. Orders accordingly.

**DATED, SIGNED, AND DELIVERED AT KILGORIS THROUGH MICROSOFT TEAMS  
ONLINE APPLICATION THE 3<sup>RD</sup> DAY OF DECEMBER, 2024**

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**F. GIKONYO M**

**JUDGE**

In the presence of

Samoita for the accused

Accused

Okeyo for DPP

Nyangaresi C/A

