



**Republic v Mwangi (Criminal Case 41 of 2014)
[2024] KEHC 15274 (KLR) (Crim) (3 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15274 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE 41 OF 2014
LN MUTENDE, J
DECEMBER 3, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPH NJOROGE MWANGI ACCUSED

RULING

1. Joseph Njoroge Mwangi was indicted for murder of Julius Mungai which occurred on 16th November, 2013 after the victim was fatally wounded on 5th November, 2023.
2. PW1 Loice Njoki Mwangi was with the accused when he recognized the victim, his uncle whom he had assaulted previously and was convicted thereby serving one (1) year jail term.
3. On the fateful night, on seeing the victim, the accused dashed towards him and upon PW1 reaching them the accused referred to the victim as a dog and vowed that he (victim) would see him. The two (2) fought. PW1 attempted to stop them from fighting but the fight intensified. The accused overpowered the victim who fell down and the accused ran away.
4. PW2 Zacharia Chege Njoroge who was passing by witnessed the fight as PW1 endeavored to separate the two. After the victim was injured as they contemplated going to the Police Station they encountered an Administration Police Sergeant who telephoned the Police.
5. The Police who went to the scene of the incident took the victim to Gatundu District Hospital where he was admitted and subsequently he succumbed to injuries sustained.
6. The victim was subjected to postmortem examination. PW9 Dr. Francis Ngugi who conducted the autopsy concluded that the cause of death was internal bleeding in the cranial cavity, intramuscular and intrathoracic cavities due to assault (blunt trauma).



7. The Prosecution/State has the burden of proof in criminal cases. To put the accused on his defence, evidence presented must be sufficient to support the information presented by the Director of Public Prosecutions. In *Bhatt v R*. [1957] EA 332 the court stated that:

“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot agree that a prima facie case is made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.” This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather hopes the defence will fill the gaps in the prosecution case. Nor can we agree that the question whether there is a case to answer depends only on whether there is “some evidence, irrespective of its credibility or weight, sufficient to put the accused on his defence”. A mere scintilla of evidence can never be enough: nor can any amount of worthless discredited evidence...It is may not be easy to define what is meant by a “prima facie case”, but at least it must mean 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.”

8. To be guilty of murder, there should be sufficient evidence to prove causation of an unlawful act with malice aforethought. Evidence of PW1 and PW2 eye witnesses to the act was sufficient to require the accused to render an explanation of what happened.

9. In the result, the Prosecution having established a prima facie case against accused, I do call upon him to defend himself pursuant to Section 306 (2) of the [Criminal Procedure Code](#).

10. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY THROUGH MICROSOFT TEAMS AT
NAIROBI, THIS 3RD DAY OF DECEMBER, 2024.**

L. N. MUTENDE

JUDGE

