



**Republic v Kamau (Criminal Case 68 of 2023)  
[2025] KEHC 13449 (KLR) (Crim) (30 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 13449 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
CRIMINAL  
CRIMINAL CASE 68 OF 2023  
KW KIARIE, J  
SEPTEMBER 30, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**DAVID GICHUNGU KAMAU ..... ACCUSED**

**JUDGMENT**

1. David Gichungu Kamau is charged with two counts of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars of the offence are that on the 20<sup>th</sup> day of July 2023, at Wanjura, Matindiri village in Gathanji subcounty, within Nyandarua County, he unlawfully murdered Mary Wangui Kahinga.
3. The prosecution's case is that the accused accessed the deceased's house after tampering with the electricity supply. When the deceased went to investigate the issue, he entered the house unnoticed. He later raped her before killing her.
4. David Gichungu Kamau, the accused, claimed that he went to help the deceased at her request. Before leaving, there was a blackout, and the deceased asked him to check the meter box. When he was returning home, the deceased gave him some green grams, salt, and some cooking fat. He denied any involvement in the offence.
5. The issues to be decided are:
  - a. Whether the accused was involved in the death of the deceased; or
  - b. Whether he was in the deceased's home innocently; and
  - c. Whether the offence of murder was proved against the accused.



6. The prosecution presented evidence that the accused interfered with the electricity supply to the complainant's house. When the complainant went out to check the meter box, the accused gained access to her house unnoticed. He raped her and later murdered her before leaving with the items she had purchased.
7. The accused contended that his relationship with the deceased was innocent and that she ended it on good terms. After assisting the deceased with milking her cattle, she gave him some items to take home. He also claimed that during an electrical blackout, the deceased sent him to the meter box to resolve the issue.
8. Josephat Kingo'ori (PW3), after viewing CCTV footage showing the suspected intruder responsible for the deceased's death, identified him as the accused.
9. Police constable Hussein Godana (PW6) explained that by reviewing CCTV footage from the deceased's home, a man wearing a maroon jumper was observed entering the property. He then took cover at the corner of the compound and approached the meter box, turning off the lights. The deceased likely stepped outside to check the meter box, leaving the door open, after which the man was seen entering the house. The deceased then went to the meter box, switched the light back on, and went back to her house. The young man seen in the CCTV footage was identified as the accused.
10. The CCTV footage disproves the accused's assertion that his visit to the deceased's home was innocent. It also contradicts his claim that the deceased asked him to examine the meter box.
11. Felista Kairuthi Henry (PW4) is a government analyst who conducted an examination of the items sent related to this case. These included a blood sample, a cotton swab, nail clippings, a hair sample, pubic hair, and a urethral swab from the accused, David Kamau Gichungu. Samples from the deceased included a blood sample, a vaginal swab, and a white bra. Items also collected from the deceased's house included a glass hot-pot cover, a piece of paper, and a green dress.
12. After her analysis, the DNA profile was generated from the vaginal swab of the deceased, which matched the DNA profiles obtained from the blood sample, buccal swab, and nail clippings of David Gichungu Kamau, the accused herein. This discredited the defence of the accused.
13. I, therefore, find that the prosecution has proved to the required standard that the accused caused the death of the deceased.
14. To convict someone of murder based on the evidence on record, the prosecution must demonstrate the presence of malice aforethought. In Black's Law Dictionary, 10th Edition, malice aforethought is defined as:

The requisite mental state for common-law murder, encompassing any one of the following (1) the intent to kill (2) the intent to inflict grievous bodily harm (3) extremely reckless difference to the value of human life (the so-called "abandoned and malignant heart"), or (4) the intent to commit a dangerous felony (which leads to culpability under the felony-murder rule).

15. Section 206 of the Penal Code gives instances when malice aforethought may be proved. It provides:

Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances—

  - (a) an intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;



- (b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;
- (c) an intent to commit a felony;
- (d) an intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.

16. The overall evidence on record clearly shows that the prosecution has proved the offence of murder against the accused. I find him guilty and accordingly convict him of the offence of murder.

**DELIVERED AND SIGNED AT NYANDARUA, THIS 30<sup>TH</sup> DAY OF SEPTEMBER 2025**

**KIARIE WAWERU KIARIE**

**JUDGE**

