



**Republic v Weru alias Ngotho (Criminal Case E034 of 2020)
[2025] KEHC 14714 (KLR) (Crim) (21 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14714 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E034 OF 2020
K KIMONDO, J
OCTOBER 21, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER WERU ALIAS NGOTHO ACCUSED

RULING

1. The accused is charged with murder contrary to section 203 as read with section 204 of the Penal Code.
2. The Director of Public Prosecutions informs the High Court that on the 20th September 2020 at around 21:00 hours within Maili Saba at Dandora area in Nairobi County, murdered Jackson Mwai chege (hereafter the deceased)
3. He pleaded not guilty. The prosecution lined up nine witnesses. Five of them appeared before my predecessor, Ogembo J. Upon explanation of the rights under section 200 (3) of the Criminal Procedure Code, the accused elected to recall all the witnesses. In a considered ruling delivered on 7th March 2024, I found that the prayer was unmerited and directed the trial to proceed from where it had reached.
4. I am now called upon to determine whether that corpus of evidence is sufficient to place the accused on his defence.
5. The Republic lodged submissions dated 22nd August 2025. Learned counsel for the defence equally filed detailed submissions dated 21st July 2025.
6. According to learned counsel for the Republic, Ms. Kigira, there is sufficient evidence that calls for a rebuttal from the accused. She relied primarily on the evidence of PW5, PW4 and PW1. She referred to section 203 of the Penal Code as expounded in Republic v Andrew Mueche Omwenga [2009] KEHC



- 1573 (KLR). She also cited a number of other authorities including *Republic v Ahmad Mohamed Abolfathi* [2019] KESC 48 (KLR), *R v Andrews* [1987] AC 281 and *Bhatt v Republic* [1957] E.A. 332.
7. But according to learned counsel for the accused, Ms Muchemi, the entire case is founded on weak and unreliable circumstantial evidence that does not tie the accused to the homicide. She argued that given the timelines and the injuries confirmed by the pathologist, it is uncertain who inflicted the fatal wounds; or, when and where the assault occurred.
 8. She relied largely on *Bhatt v Republic* [supra] and *Republic v Daniel Charo Katana* [2021] KEHC 4026 (KLR). In a synopsis, the defence submitted that the prosecution failed to lay a firm foundation calling for a rebuttal from the accused.
 9. My findings are as follows. It bears repeating that the accused is still deemed innocent. Furthermore, the inquiry at this juncture is merely to establish if a prima facie case has been made out requiring a rebuttal.
 10. I have paid heed to the evidence of some of the key witnesses. The deceased was a bodaboda rider. According to Mercy Matheka (PW1), on 20th September 2020, she and her husband, Bernard Kinuthia (PW4) were about to go to bed when the deceased came in. PW4 is a younger brother of the deceased. The deceased was nose bleeding and had had some injuries on his swollen head.
 11. PW1 claimed that the deceased told them that he was beaten up by the accused. Two days later, on 22nd September 2020, the deceased returned from work at night nose bleeding with a swollen head. He claimed again that he had been beaten by the accused
 12. The witness testified that on 23rd September 2020, the deceased came back in the evening drunk, nose bleeding and looking very weak. That she and PW4 escorted him to his house where he stayed alone. He got to bed and they locked the door from outside. He was discovered the following morning lying dead on the floor in a pool of blood.
 13. There is then the evidence of PW5. He claimed that on 20th September 2020 at about 9:00 p.m., he saw two people fighting outside his gate. When he got out he found three men. One of them, the accused, was bleeding on the forehead. The witness testified that the accused told him that the person being beaten was the deceased. The witness said that the deceased had “already ran away”. In cross examination, he admitted that he did not witness the fight between the accused and the deceased.
 14. But according to Corporal George Kamanda (PW7) and Corporal Josphat Wafula (PW9), the deceased had picked a quarrel with his younger brother (PW4) on 23rd September 2020. He went to the kitchen and picked a knife but his brother (PW4) disarmed him. He returned with another knife and in the struggle, the knife broke. The witness said that the deceased claimed he was being discriminated by the family.
 15. The death of the deceased is no longer in doubt. The deceased’s father, Michael Chege Kinuthia (PW3) and his nephew, Bonface Kiilu Mwai (PW3) identified the remains for postmortem purposes at the City Mortuary.
 16. According to the pathologist, Dr Peter Ndegwa (PW6), the cause of death was “multiple injuries due to blunt force trauma” . I should add that upon cross examination, he could not establish the age of the injuries but that “they were all recent...were within 24 hours”



17. Upon the digest of the above evidence and guided by the precedents in Bhatt v Republic [1957] E.A. 332 and R v Kipkering arap Koske & another 16 EACA 135 (1949), I find that the Republic has established a prima facie case against the accused.
18. Accordingly, under the provisions of section 306 (2) of the Criminal Procedure Code, I now place the accused on his defence.

It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 21ST DAY OF OCTOBER 2025.

KANYI KIMONDO

JUDGE

Ruling read virtually on Microsoft Teams in the presence of-
Accused.

Ms. Kigira for the Republic instructed by the Office of the Director of Public Prosecutions.

Ms. Kavoi holding brief for Ms. Muchemi for the accused instructed by Janice Muchemi Advocate.

Mr. E. Ombuna, Court Assistant.

