



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Musau & another (Criminal Case E009 of 2012)
[2025] KEHC 14575 (KLR) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14575 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL CASE E009 OF 2012
RC RUTTO, J
OCTOBER 16, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

PETER MUTHUI MUSAU 1ST ACCUSED

PHILIP MACHARIA WAITITU 2ND ACCUSED

RULING

1. The two accused person were charged with the offence of murder contrary to Section 203 as read together with Section 204 of the Penal code. The particulars are that on 18th February 2012 at Hermatton Teachers Training College, Koma Matungulu within Machakos County, jointly murdered Catherine Wagitei Mugi.
2. The accused pleaded not guilty. The matter proceeded to hearing during which the prosecution called 19 witnesses and closed its case.
3. Both the accused and the prosecution were directed to file submissions addressing the issue of whether the accused has a case to answer. They opted to rely on the record.
4. Having considered the totality of the evidence of the 19 prosecution witnesses and the exhibits produced in the court, I find that a prima facie case has been established against both the accused person.
5. At this juncture I will reserve my reasons for the finding. I am guided by the decision in Festo Wandera Mukando versus Republic 1980 (KLR) 103 and Republic versus Kevin Owuor Abith alias Opundo (2022) eKLR which cautioned that; it is inadvisable for the trial court to give reasons as to why an accused person is placed on his defence.



6. I therefore will remain cautious not to make any definitive findings at this stage by declining to provide reasons, even as I conclude that the accused has a case to answer. Accordingly, the accused person is placed on his defence.

7. The matter will be mentioned on 4th November, 2025 for directions under Section 306(2) of CPC.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 16TH DAY OF OCTOBER, 2025.

RHODA RUTTO

JUDGE

In the presence of;

.....ODPP

.....Accused

Selina Court Assistant

