



**Republic v Mwaura (Criminal Case 6 of 2019)  
[2025] KEHC 14097 (KLR) (8 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14097 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAJIADO  
CRIMINAL CASE 6 OF 2019  
CW MEOLI, J  
OCTOBER 8, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**MORRIS MBUGUA MWAURA ..... ACCUSED**

**JUDGMENT**

1. The Accused herein, Morris Mbugua Mwaura was charged with Murder contrary to Section 203 as read with Section 204 of the Penal Code. The information states that on 11<sup>th</sup> February, 2018 at Nkoroi area in Ongata Rongai in Kajiado North Sub-County within Kajiado County he, with others before the court, jointly murdered Priscilla Wangeci Wanjiku. The Accused denied the charge.
2. The matter proceeded to full hearing with seventeen (17) witnesses testifying for the prosecution and concluding before Mutuku J who subsequently found that a prima facie case had been established against the Accused. The case arose from the same circumstances as High Court Criminal Case No. 5 of 2018 (hereafter HCCRC No. 5 of 2018). In both cases, the accused are members of the same family, the prosecution witnesses are the same and the deceased is the same person. The two cases were not consolidated as the Accused herein was arrested a year after other members of his family had been arrested and arraigned in HCCRC No. 5 of 2018, whose proceedings were then so advanced that the court did not consider an order for consolidation and de novo hearing appropriate.
3. During the trial, Pauline Njeri Nderitu (PW1) testified that she lived at Nkoroi with her in-laws including her parents- in-law and the brothers of her husband, Arthur Thairu who worked in Dubai, and is a brother to the Accused, whose own house was in the same compound.
4. Stating that she had met the deceased herein, a girlfriend/wife of the Accused, some 6 months prior to her death, she testified that on 10<sup>th</sup> February 2018 at about 9pm the deceased passed by her house on her way from their mother-in-law's house and informed her she was going to sleep in the Accused's



house. And that she dissuaded the deceased from spending the night at that house which robbers had broken into on 27.1.2018. That the deceased having switched off the lights in the said house presently returned, and the two retired to bed.

5. On the next day at about 6am the deceased went back to the Accused's house while she had breakfast and later, she went to her mother-in-law's house to help Nelly, a sister-in-law (PW2) and her mother-in-law with preparations for visitors expected at the home. She stated that she found her mother-in-law, one Wangui and other family members including PW2. Noting the absence of the deceased, she inquired with other persons around her, but nobody knew of her whereabouts, and she never showed up.
6. About 4pm, she heard PW2 screaming from the deceased's house, saying that something was wrong with the deceased. That the mother-in-law and one Jane rushed to the deceased's place and on return announced that the deceased had committed suicide. That the father-in-law, accompanied by PW2, brothers-in-law Martin and Denis went to report the incident to police. She stated that she did not go to the deceased's house as she did not want to see her dead body.
7. In cross-examination, she stated that at the material time, the Accused was away in Dubai, and the last time she had seen the Accused was in August, 2017. Further admitting that she had been arrested as a suspect together with other family members of the family following, which she recorded a statement.
8. Nelly Kemuma Ongera testifying as PW2 stated that she resided at Nkoroi Ongata with her husband Dennis Kihara (the 4<sup>th</sup> Accused in HCCRC No. 5 of 2018) who worked in Dubai and is a brother to the Accused. And that the couple lived in the homestead of their father-in-law. She too stated that she knew the deceased as the wife to the Accused, but at the time living in Dandora and visiting the Nkoroi homestead once in a while.
9. It was her evidence that on 10.2.2019, she went to her mother-in-law's house and found the deceased, Anne Wangari, the father-in-law as well as her husband Dennis, and stayed until 8pm when she left for her house. On the morning of the next day, having prepared breakfast for her husband who left for work at around 6:40am, she left for her mother-in-law's house to help prepare for visitors. While there, she met Anne Wangari before PW1 joined them and told her that the deceased had slept in her house but had left at around 6am.
10. In conversation, the women discussed the whereabouts of the deceased who had not appeared by 4pm, when Dennis (PW2's husband) asked Wangari for the spare key to the deceased's house. She stated that she went there and using the keys, opened the deceased's kitchen door, entered the house, and saw no one in the kitchen. Upon entering the bedroom, she found the deceased in a kneeling position next to the bed. Screaming, she ran out of the house and informed Martin, and both then informed the rest of the family. That the mother-in-law went to confirm the report and returned to announce that the deceased had committed suicide. The matter was then reported at Ongata Rongai Police Station.
11. In cross-examination, she stated that her husband was an accused person in HCCRC No. 5 of 2018, charged with the murder of the deceased. She stated that she together with the whole family had been arrested, but subsequently released together with Hannah, Wangui (PW3) and PW1. The rest were charged in HCCRC No. 5 of 2018. It was her evidence that the accused was in Dubai at the material time and that he did not attend the burial of his wife with whom he had allegedly enjoyed a good relationship. She however stated that she did not know whether the Accused used to send the deceased any upkeep money as the deceased was not open and she was not close to her.
12. Further stating that the deceased had not had an argument with any member of her family, she confirmed a recent burglary incident at the Accused's house while the deceased was away, which



- incident was reported at Ongata Rongai Police Station. She stated that two homes in the homestead had been burgled in the incident which occurred in January 2019; Martin's house and the deceased's house. She stated that when she saw the body of the deceased it was clothed and that she panicked and ran out and did not see the body a second time. She stated that she saw a suicide note found in the mother-in-law's house under a cushion on 24.4.2018 by a niece, Alice Wambui (PW10). It was handed over to Ongata Rongai police station and produced as an exhibit in HCRC No. 5 of 2018.
13. PW3, was Hannah Wangui Mburu. She testified that in the material period, she and her husband Martin Chege, (the 3<sup>rd</sup> Accused in HCCRC No. 5 of 2018) resided in the family homestead at Nkoroi; that the Accused who also lived within the homestead was her brother-in-law; that she knew his wife, the deceased who though ordinarily living in Dandora would visit Nkoroi on weekends; and that the last time she saw the deceased was on the night of 10.2. 2018 when the deceased entered her (deceased's) house using the rear door. PW3 further testified that on 11.2.2018 she participated in preparations for guests expected at her parents-in-laws' house, however, the deceased was nowhere to be seen and the family members were concerned about her, as efforts to reach her were futile.
  14. She stated at 4:00pm, a spare key to the deceased's house was used by PW2 to access the house, whereupon the said witness emerged screaming that the deceased was in a bad state. Having entered the house following the news, the mother-in-law announced that the deceased had committed suicide. PW3 stated that she did not view the body, and that her husband and his brothers went to report the matter to the police.
  15. During cross-examination she stated that she was arrested together with 7 other family members and spent 10 days in custody before being released and was also a witness in HCRC No. 5 of 2018. She stated that she had a good relationship with the deceased who was expectant and had never confided to her about any problems in her relationship with the Accused, which the witness described as good. She too confirmed seeing the suicide note recovered in April 2018 in her parents-in-laws' house by PW10.
  16. Henry Kiptoo Sang (PW4), the government analyst holds a Bachelor of Science degree from Moi University. His duties involve analysis of human body tissues and fluids especially DNA analysis to determine genetic relationships. He has over 10 years working experience. He stated that on 21.2.2018 he received the following items:
    - a. Toenails in a khaki envelope marked A - female foetus.
    - b. Toenails also in a khaki envelope marked B - male foetus
    - c. Toenails in a khaki envelope marked C- Priscilla Wangechi (deceased)
  17. The samples were accompanied by an exhibit memo on 12.4.2019 while one Morris Mbugua Mwaura (the Accused) was escorted to the department by PC Joseph Mutonya. A buccal sample was obtained from the accused. He was requested to conduct a DNA analysis and determine any relationship between the samples, and upon doing so concluded that that DNA profiles from the nail and buccal swabs indicated 99.99% chances that Priscilla Wangechi (deceased) and Morris Mbugua (Accused) were biological parents for the donors of the toe nails marked 'A' (female foetus) and 'B' (male foetus). He produced his report dated 30<sup>th</sup> May, 2019 as P.Exh 2.
  18. Veronica Wanjiku, testifying as PW5 identified herself as the mother of the deceased. Her evidence was that she resided at Dandora , and that the deceased had been married to the Accused for 6months at the time of death after the Accused paid a visit to her home. She stated that on 10.2. 2018 the deceased who was in her house informed her that she had been invited to go to her mother-in-law's place for the weekend. She stated that she called her once on the phone and did not talk to her again that day,



but on return on 11.2. 2018 at 1100pm, she found the house locked, and upon calling the deceased's phone, found it off. And similarly on the next day her cousin, the deceased's employer called inquiring after the deceased. And later when summoned to the Accused's home in Ongata Rongai, proceeded there in the company of the cousin and his wife. At the home, the Accused's mother informed them that the deceased had committed suicide. On 15.2.2015 she witnessed the postmortem examination of the deceased at the City Mortuary.

19. Lydia Wanjiru Maina (PW6) identified the deceased as her niece with whom she was very close. She stated that on 10.2.2018 the deceased called her and informed her that she was going to her mother-in-law's place for the weekend. That the deceased further confided in her that the Accused had called her and told her that he did not want her at his home. She stated that on 12.2.2018, her husband informed her that the deceased had committed suicide. She too witnessed the postmortem examination of the deceased.
20. Under cross-examination, she stated that the deceased had informed her of a robbery incident at her house at Nkoroi, and reiterated that on 10.2.2018 the deceased told her that the Accused ordered her to leave his home and if she did not do so, he would ask his family to evict her. The witness said she did not pass on this information to the families concerned.
21. PW7 was Julius Maina Kimani who stated that the deceased was his niece and PW5 his sister; that on 12.2.2019 he received a call from another niece called Hannah requesting him to proceed to the deceased's home at Ongata Rongai. While there with other family members, they were informed that the deceased committed suicide, and shown the deceased's house where the incident took place. Later on 15.2.2018, he identified the deceased's body at the postmortem examination, during which twin fetuses male and female, were found in the body.
22. No. 78226 PC John Ngeno, testifying as PW8 told the court he was a scene of crime officer with 12 years' experience, and previously stationed at DCI Ongata Rongai. His testimony was that on 21.2.2018 he accompanied the investigating officer to the City Mortuary, where he was shown twin fetuses, male and female; that he took six photographs of the bodies showing general, close-up views which he produced as P.Exh. 3 and his accompanying report as P.Exh. 4.
23. Mary Wanjiku Macharia (PW9) is a cousin to the deceased. She testified that since 2012, the deceased was a fellow teacher at Victorious Junior Centre Primary school where the witness was the head teacher; that on 12.2.2018 the deceased did not report to work; that she later received a call from Alice Wambui who introduced herself as the mother to the Accused, requesting her to go to the Accused's mother's home with a relative; and that the witness accompanied by PW5 proceeded to Ongata Rongai where they found other members of the deceased's family and were briefed on her death.
24. She further testified that Ongata Rongai police subsequently called her requesting for documents containing the deceased's sample handwriting. She therefore submitted several documents including application letters dated 23.6.2010 and 12.1.2017 (P.Exh. 5 & 6) and two sets of curriculum vitae of the deceased all which were handwritten (P.Exh.7 & 8).
25. PW10 was Alice Wambui Githieya the daughter to one of the siblings of the Accused, one Wangare, then residing at the Nkoroi homestead. The sum total of her evidence was that in the material period she was a Form 4 student at Rubate Secondary school; that on 28.4.2018 while at her grandmother's home, she found a folded piece of paper with writings naming her relatives including Wangechi, Morris and Wangari, under a seat cushion; and that not understanding the contents, she handed it to PW3. In cross-examination she said she was 15 years old at the time and that she did not recognize the handwriting on the note which she found after the deceased's death, and; that while close with the Accused, she was not close to the deceased .



26. The scene where the deceased's body was found was documented by Sgt. George Odhiambo (PW11) a gazetted forensic scenes of crime officer with a total of 33 years' experience 8 of them as a scenes of crime personnel, at the material time attached to DCI Ongata Rongai. He stated that on 11.2.2018 at 7 p.m. he received a call from PC Karanja regarding a report of suicide at Nkoroi along Kanisani Road and accompanied him and IP Muli who was the duty officer together with the person who had made the report, to the scene.
27. On arrival at the homestead, they were led to a house within. In the main bedroom of the house, they found the body of the deceased, next to a steel bed, facing the wall in a kneeling position, with a rope on the neck tied to the bed, and a lessa on the floor where it was kneeling. He took several photos of the scene showing the road leading to the homestead on Jerusalem close off Kanisani road; close-up view of the road sign in Jerusalem close; general view of the homestead; the material house; rear door through which the deceased was said to have gained entry into the house; immediate house next to the scene; the body at different angles; PC Chege inside the room pointing on the wall; a broken rafter on the ceiling of the house; and the key to the house and a cellotape which were on the bed. He processed the photographs and made a report dated 26.2.2018, which he produced together with the 19 photographs as P.Exh.9a and 9(b), respectively.
28. CIP Iranda Masiko (PW12) is a forensic documents examiner attached to the DCI at Nairobi. He holds a Bachelor of Education in Science from Maseno University. He trained as a Forensic documents examiner at the DCI Forensic Lab Khartoum, Sudan and Gujarat Forensic Sciences University, India. He identified a report prepared by Cpl. Martin Kitayi dated 7/5/2018 and testified to be familiar with Cpl. Kitayi's handwriting and signature having worked with him for over seven years. He identified the exhibit memo received on 4.5.2018 accompanying exhibits forwarded for analysis as the questioned document A1 purported to be a suicide note by the deceased ; B1 - B4 being known handwriting of the deceased; and C1 – C2 being documents bearing known signatures of the deceased.
29. The witness stated that the documents were examined by Cpl. Martin Kitayi, whose findings were that having compared A1 against B1 – B4, he concluded that both were made by the same hand. Similarly, upon comparing the signature on A1 and known signature on C1 – C2 marked by a black stamp, he concluded that the signatures were made by the same person. The report dated the report on 7/5/2018 contained the methodology adopted and machine used as well as the individual characteristics considered during analysis. He produced the report as P.Exh. 10.
30. Sgt. Henry Kathurima Mwongo was PW13. He testified that he was based at DCI Headquarters and attached to Safaricom Security Department and Technical Division. That on 21.2.2018 a request was received from DCIO Ongata Rongai requesting Safaricom to provide call data records in respect of lines number 07XXXXXXXX and 0XXXXXXXX among others, which were not relevant for the period between 8/2/2018 to 21/2/2018.
31. He stated that line number 07XXXXXXXX was registered to the deceased of identity card No. XXXXXXXX while line number 0XXXXXXXX was registered to Dennis Kihara Mwaura (4<sup>th</sup> Accused in HCCRC N0. 5 of 2018) of identity card No. 29843535. Further on 20/12/2019 a further request was made in respect of registration details of line no. 07XXXXXXXX, which was found to be registered in the name of Lydia Wanjiru Maina (PW6) of identity card No. XXXXXXXX and registered on 21/1/2008. He stated that upon retrieving the relevant documents he handed them over to the investigating officer. He produced the call data for the two lines (P. Exh.12 (a) and (b)), request letters dated 21/2/2018 (P.Exh. 11) and 20/12/2019 (P.Exh. 13) and subscriber registration details (P. Exh.14) as well as his certificate under the *Evidence Act* (P.Exh.15). During cross-examination, he



stated that he retrieved data of the subscribers of the lines in question and that he did not obtain details connected with the Accused.

32. IP Benard Gitonga testifying as PW14 stated that he was attached to the Anti-terrorism Unit Cyber Forensic Lab, and on 19.9.2018 received a request from P.C. Joseph Mutonya (PW17) seeking forensic examination of following marked exhibits: A-1 Techno mobile phone which had a sim card for line No. 07XXXXXXXX ; D-1 mobile phone make Corn bearing Safaricom sim card for line No. 07XXXXXXXX; and H-1 mobile phone make Oppo with Safaricom sim card for line No. 0XXXXXXXX. Using an application identified as UFED version No. 7.8.0.942 he subjected the exhibits to forensic analysis. He found that exhibit H-I contained WhatsApp messages of interest, and the machine was able to recover 35 WhatsApp messages but 6 had been deleted and could not be recovered.
33. The witness highlighted some of the messages of interest as follows:
- (1) Message sent on 11/2/2018 at around 15.33hrs from mobile No. 0XXXXXXXX (hereafter the sender) to +97XXXXXXXX (hereafter the recipient), a recipient saved as DUBS/Bro Morris: “Home si kuzuri yule wife wa Morris Priscilla”
  - (2) 11/2/2018 at 2103hrs from a different line No. +97XXXXXXXX by the above recipient to the same sender of no. 0XXXXXXXX, content stating: “Mkae Ngumu Mambo itakua poa tutamsahau”.
  - (3) On 11/2/2018 at 2119hrs from same sender above to the same recipient on +97XXXXXXXX, content: “Na hii picha isitumiwe mtu mwingine please”.
  - (4) On 19/2/2018 at 0318hrs from +97XXXXXXXX (recipient) to unknown person, content: “Hizo mambo zikiisha hiyo hao gona wash it from everywhere”
  - (5) 19/2/2018 at 0319hrs from +97XXXXXXXX from Bro Morris (recipient) to sender: “Hizo vitu mutakunja azitupe zote”
  - (6) 19/2/2019 at 0320hrs from +97XXXXXXXX under the name Bro Morris (recipient) to sender content of message: “Everything vitu zake zitoke kwa hao yangu”
  - (7) 19/2/2018 at 0322hrs from No. +97XXXXXXXX - Bro Morris (recipient) to sender content: “I need to clear up my house hizo vitu zake need them out of my house”.
  - (8) 19/2/2018 at 0323hrs from +97XXXXXXXX, Bro Morris to sender content: “I will send money mtu atoe zote”
  - (9) 19/2/2018 at 0330hrs from +97XXXXXXXX, Bro Morris (recipient) to sender, message: “U then all clean”
  - (10) 19/2/2018 at 0839hrs from +25XXXXXXXX (sender) to +97XXXXXXXX to Bro Morris (recipient), content: “Tutatupa vitu ama tuzichome”.
34. The witness produced the Oppo mobile phone IMEi 86XXXXXXXX915 bearing Safaricom line for No. 0XXXXXXXX as P.Exh.16 and his report dated 28/9/2019 as P.Exh. 17. In cross-examination he confirmed that his role was limited to analyzing the exhibits, adding that he retrieved 35 WhatsApp messages from the Oppo mobile phone, but it was not his duty to establish the identity of the sender and recipient of the messages.
35. Cpl. Joseph Karanja (PW15) testified that he was attached to the DCI Ongata Rongai, and that on 11/2/2018 while on duty with PC Mutonya at 6:30pm, he learned of a suicide report from PC Adano.



- He The reportee one Peter Mwaura Njeru (the 2<sup>nd</sup> Accused in HCCRC No. 5 of 2018) accompanied by his two sons and several grandchildren was referred to the witness. The report was to the effect that the deceased had visited the reportee's homestead but was later found dead in her house. PW15 stated that he then proceeded in the company of the scenes of crime officer to the scene where they found other officers present.
36. That upon the deceased's house being opened they found the body of the deceased tied tightly against the bedpost; that it was in a kneeling position on bedsheets; the mouth had been covered with a masking tape; and that there was a phone on the bed, keys and a roll of masking tape. The scene was documented, and the body removed to the City Mortuary. PW15 revisited the scene on the following day and noted a shoe print on the wall of the house.
  37. He further stated that upon interrogation, family members present on the day the deceased died claimed that the deceased took supper at her mother-in-law's house and later retired to her house and was subsequently found dead, allegedly having committed suicide. The witness was present during the postmortem on 15.2.2018 when the body was identified to the pathologist by the deceased's relatives. It was found that the deceased was pregnant with twins, a boy and girl. The witness also received DNA samples on 20/2/2018 which had been taken at postmortem by the pathologist, before handing over the investigations with PC Mutonyi.
  38. Cross-examined, he stated that he did not carry out a search in the subject house; that there was a rope around the deceased's neck and it was tied to the bedpost; that the rope was tied tight on the neck; and that he did not observe any signs of struggle. He said that while the phone at the scene belonged to the deceased, the witness did not check the messages in the phone. He asserted that footmarks were visible on the second day of his visit to the scene of crime and that he had not seen the prints on the first visit.
  39. Cyrus Kinyanjui (PW16), a neighbour to the family of the Accused testified to have attended the church fellowship involving more than ten people hosted by the parents of the Accused between 2:00pm to 5:00pm on 11.2.2018. He later learned of the death of a female at one of the houses at the homestead.
  40. Joseph Mutonya Jonathan (PW17) testified that he was at the material time based at DCI Ongata Rongai and recalled that on 11/2/2018 while on duty with PW15, he received information about a suicide report. He was allowed to adopt his evidence in HCR 5 of 2018 and specifically referred to the post-mortem report P.Exh 16 produced in that case. He further stated that on 8/4/2019 he arrested the Accused in connection with the murder and that analysis of DNA samples of the Accused, deceased and twin foetuses showed that the Accused and deceased were the biological parents of the 2 foetuses. Citing the report marked as P.Exh 2 herein. During cross-examination, he stated that the scene of crime was secured for one year after the body was removed. And gave the reason for arresting the Accused to be the fact that the WhatsApp messages showed that he organized and indicated happiness with the killing.
  41. His evidence in HCCRC No. 5 of 2018 where he testified as PW16 was to the following effect. He recalled that while on duty on 11/2/2018 he received information concerning a suicide report made by the 2<sup>nd</sup> Accused. To the effect that his daughter-in-law had committed suicide in her house, as recorded vide OB No 84/11/2/2018 (P. Exh 21). He also learned from Cpl. Karanja that he had found deceased's body in a bedroom inside her house, her neck tied with an electric iron cable, and the mouth sealed with masking tape. Further that there was no evidence of house breaking.
  42. Accompanied by Cpl. Kenjo and others on 13/2/2018, the witness visited the scene and observed a broken ceiling timber rafter in the house in question, a shoe print mark resembling safari boot sole print on the wall, while the bed appeared undisturbed. He formed the impression that the broken ceiling



timber rafter was the point where the rope around the deceased's neck may have been tied, but broke due to her weight. He together with colleagues attended the postmortem on the deceased conducted at City Mortuary by Dr. Ndegwa on 15.2.2018 after identification by family members. The cause of death was stated to be due to ligature strangulation with chest compression, the pathologist ruling out suicide. Two dead foetuses of a boy and girl were removed.

43. PW16 (here PW17) produced articles handed to him by PW12, being a key and padlock as (P.Ex 7 (b) and 9 (b), and pointed to photographs processed by Sgt Odhiambo (PW1) showing the shoe print mark on the thigh of the deceased that appeared similar to shoe print mark on the wall of the house where the body was found. He highlighted evidence that the deceased had confided in one of her relatives (PW5) that her relationship with the deceased was strained at the material time and the call data obtained from Safaricom (P.Exh. 17). The witness also produced the digital forensic examination report dated 20/9/2018 and prepared by IP Bernard Gitonga Njeru in respect of the 4<sup>th</sup> Accused's Oppo Phone and line no. 0XXXXXXXX (P.Exh. 23).
44. PW16 (here PW17) explained that upon the arrest of the Accused persons on 25.2.2018, their mobile phones including the 4<sup>th</sup> Accused's Oppo phone were confiscated and forwarded via an exhibit memo (P.Exh. 24) to the Cyber-crime and Anti-terror personnel who prepared the report (P. Exh.23). Which contained communication data between the 4<sup>th</sup> Accused and his brother, Maurice Mbugua, the deceased's husband then residing in Dubai.
45. During the arrest, spare keys for the deceased's house were recovered from the 1<sup>st</sup> and 2<sup>nd</sup> Accused (P.Exh. 9 (a). All which he recorded in the inventory marked P.Exh. 25 and further produced the deceased's alleged suicide note as P.Exh. 12. His enquiries with Safaricom regarding line No. 072841682 confirmed the subscriber to be the 4<sup>th</sup> Accused of ID No. 29843535 as confirmed by the report from the National Registration Bureau (P.Exh. 28). Finally, the witness stated that he thought the 4<sup>th</sup> Accused was culpable for the death of deceased.
46. During cross-examination regarding the WhatsApp messages in P.Exh. 23, PW16 admitted that the words "kill", "murder" or "tupa mwili" were not in the communication. And stated that he charged the 1<sup>st</sup> and 2<sup>nd</sup> Accused because they lured the deceased to their house to attend a church service in their home where the deceased had a house. Admitting that the evidence against the 3<sup>rd</sup> and 4<sup>th</sup> Accused was circumstantial, he stated that he did not know the role each played in the killing of the deceased. But reiterating evidence of the broken ceiling rafter, stated that each accused took part in strangling the deceased.

### **Defence Case**

47. Pursuant to the ruling delivered by Mutuku J on 9.07.2024, the Accused was found to have a case to answer. The defence thereafter proceeded before me, the Accused electing to give sworn evidence while not calling any witness. His testimony was to the following effect. The deceased herein whom he had met 3 years earlier while in college in Thika was his wife and accepted by his family although no formalities had been observed; that he introduced the deceased to his family in August, 2017 and returned to Dubai and did not return to Kenya to visit his wife at all until 2019; that the deceased was a teacher living at Huruma and was expectant and though the deceased had said that she could not commute to her place of work from Nkoroi, the two had not disagreed; and that while in Dubai in 2018, his brother Dennis Kihara (4<sup>th</sup> Accused in HCCRC No. 5 of 2018) called him on 11.2.2018 to inform him that his wife had committed suicide in his house.
48. He stated that his house had remained locked by the police for a year after the incident, and he had thereafter instructed his brother to clean it and burn any clothes of the deceased. He claimed that the



police had demanded bribes from him to surrender back the house before an order was made by the court. He did not come to Kenya until late in 2018 when he attended the burial of his sister, and in April, 2019 to renew his passport when he was arrested at JKIA.

49. Under cross-examination, he stated that he met the deceased in 2017 during which period he had started working in Dubai. He stated that after introducing the deceased to his family in August 2017, he left her in the hands of his parents who, like his siblings were unaware that the deceased was pregnant. And that while he never returned to visit her, he sent her upkeep money as the two considered themselves a married couple.
50. He admitted that he had threatened the deceased as stated by PW6 because the deceased had abandoned his house as a result of which a theft had taken place. Further that he had been informed by his mother that she had invited the deceased to the home on the material weekend when some guests were expected at the home. He stated that while he was away, he communicated with the deceased via phone calls and messages. He said as a result he knew deceased was at his home on 11.2.2018.
51. The defence filed submissions dated 3<sup>rd</sup> March, 2025. The submissions reiterated evidence on record, and especially highlighted the fact that the Accused was away in Dubai at the time of the deceased's death and was never summoned by the police during investigations and that the cause of death per medical evidence and suicide note was suicide. Counsel hence submitted that from the facts of the case, the prosecution failed to prove the charge of Murder contrary to Section 203 as read with Section 204 of the penal code to the required standard. He urged the court to acquit the Accused.

### **Analysis and Determination**

52. The court has reviewed the entire evidence on record. With a few exceptions, the prosecution evidence in this case was adduced through the same witnesses who testified in HCRC No. 5 of 2018. At this stage, the duty of the court is to determine whether the prosecution has proved the charges against the Accused beyond reasonable doubt. Some basic facts are not in dispute. The 1<sup>st</sup> and 2<sup>nd</sup> Accused in HCRC No.5 of 2018 (hereafter the earlier case) are the parents of the 3<sup>rd</sup> and 4<sup>th</sup> Accused therein, the Accused herein, and one Arthur Thairu, husband of PW1.
53. During the material time, the Accused herein was residing in Dubai, while his brothers and their respective spouses lived at the family homestead at Nkoroi, each occupying their own separate houses. The Accused too had his own house erected on that compound. Some months prior to the material date, the deceased, a teacher working and ordinarily residing at Dandora with her mother PW5, was introduced by the Accused to this family as a wife or girlfriend.
54. Although it appears that no formal ceremony was held between the families of the deceased and the Accused, after the introduction to Maurice's family, the deceased continued to work and reside at Dandora, but occasionally visited the Nkoroi family home, during which visits she would stay in the house of the Accused.
55. On the specific weekend of her death, the deceased who was six months pregnant with twins, had been invited over by the mother of the Accused to assist in making preparations for her guests expected on 11.02.2018. She arrived on the previous day and having spent time with other women in the family in the house of the Accused's parents, and eventually retired for the night in the house of the Arthur Thairu at the invitation of his wife, PW1.
56. According to PW1, the deceased left the house at 6.30am on the next day, but did not join the other women at the house of their mother-in-law, and eventually at about 4pm, PW2 using spare keys, accessed the house of the Accused only to find her dead body tied by a cable to her neck and fastened to



the bedpost by several knots. Police were notified and visited the scene which was documented before the body was removed, and a postmortem conducted a few days later. The pathologist determined the cause of death to be ligature strangulation with chest compression.

57. Seven members of the Accused's family, including his parents, were subsequently arrested, and about two months later while investigations were ongoing, the Accused's family presented police with a handwritten suicide note, purportedly authored by the deceased, which had allegedly been found by PW10 in the house of the Accused's parents. The Accused herein was informed about the death of his wife but he remained outside the country, only travelling to Kenya in October 2018 to attend the funeral of his sister, one Wangari, and again in April 2019 when he was arrested at the airport. He was eventually arraigned on the present charge.
58. In criminal cases, the burden lies with the prosecution to prove charges against accused persons beyond reasonable doubt, and the burden never shifts. Thus in this case, the onus was on the prosecution to prove the ingredients of the offence preferred against the Accused, namely, the fact and cause of the death of the deceased person, and that it is the accused persons whose actions or omissions led to the deceased's death, and, that the accused persons had malice aforethought, as held in *Roba Galma Wario vs. Republic* [2015] eKLR.
59. The prosecution case rests on circumstantial evidence; none of the witnesses testified to have been witnesses to the murder of the deceased or gave any kind of direct evidence to that effect. In the celebrated decision in *R v Taylor Weaver and Donovan* (1928) 21 Cr. App. R 20, the court stated that:
- “Circumstantial evidence is often said to be the best evidence. It is the evidence of surrounding circumstances which by intensified examination is capable of proving a proposition with accuracy of mathematics. It is no derogation of evidence to say that it is circumstantial.”
60. In *Mwangi v Republic* [1983] KLR 327, the Court of Appeal in considering the weight of circumstantial evidence observed as follows:
- “In order to draw the inference of the accused's guilt from circumstantial evidence, there must be no other co-existing circumstances which would weaken or destroy the inference. The circumstantial evidence in this case was unreliable. It was not of a conclusive nature or tendency and should not have been acted on to sustain the conviction and sentence of the accused.”
61. The threshold for convicting an accused person on circumstantial evidence was spelt out by the Court of Appeal in *Abanga alias Onyango vs. Republic* (CR. App. No. 32 of 1990) LLR No. 3975 as follows:
- “It is settled law that when a case rests entirely on circumstantial evidence, such evidence must satisfy three tests:
- i. The circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;
  - ii. Those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;



- iii. The circumstances taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else.”

62. Similarly, the same Court reiterated the applicable principles in *Joan Chebichii Sawe vs. Republic* [2003] eKLR as follows:

“As we have already pointed out, the evidence in this case was entirely circumstantial. In order to justify, on circumstantial evidence, the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused, and incapable of explanation upon any other reasonable hypothesis than that of his guilt. There must be no other co-existing circumstances weakening the chain of circumstances relied on. The burden of proving facts that justify the drawing of this inference from the facts to the exclusion of any other reasonable hypothesis of innocence is on the prosecution, and always remains with the prosecution. It is a burden, which never shifts to the party accused.”

63. The foregoing cases echo the timeless principles pronounced in earlier decisions involving circumstantial evidence, including *Republic - vs Kipkering Arap Koske* [1949]16 EACA 135 and *Simoni Musoke -vs- Uganda* (1958) EA 715.
64. The fact of the deceased’s death by strangulation is not disputed, but regarding the cause, the question arising from the evidence at hand is whether she died of suicide or was strangled. Indeed, the initial report made by the Accused’s family to police was that the deceased had committed suicide.
65. However, this court upon intense examination of the evidence on record, found strands tending to negate the suicide theory. First, the appearance of the scene as described by several eyewitnesses and documented in photographs taken by police at the scene. The court upon reviewing these photographs and the oral evidence formed the considered view that it is a practical impossibility that the deceased while in a kneeling position could have hang herself from a rope tied to the bedpost which was only about a foot above her head. To do so, she would have had to first tie one end of the rope on the bedpost and the other on her neck, and then pull her body away so forcefully that the rope and noose were tight enough to strangle her. That appears an impossible feat for a woman who was six months pregnant.
66. Her body was not found hanging from any significant height; she was literally tethered by a cable/rope like an animal to the bedpost with several knots securing the cable to the bedpost. She was on her knees, and there was no space between her kneeling body and the floor to allow the dangling of her body. Nor could she have hung herself while standing, as the bedpost to which the second end of the cable was tied would have been at least three feet below her neck if in a standing position, and the noose of the rope on her neck much shorter.
67. The bed itself and room appeared undisturbed, according to the witnesses and photographs documenting the scene that were taken by PW11. The deceased was kneeling on a neatly arranged lessa with her keys and phone beside her. Her mouth was sealed with masking tape. If indeed the deceased took her own life, why would she have taken the trouble of sealing her own mouth with masking tape, having left an undated suicide note (P.Exh. 12 in the earlier case) hidden in a different house? The location of that note allegedly found tucked in a seat cushion two months later by PW10 in the house of the Accused’s parents raises questions, based on description of events of the evening by witnesses such as PW1 and PW3, as to what opportunity the deceased had to put it there on the night of 10<sup>th</sup> February 2018.



68. From the evidence of the family members who spent time with the deceased on that date, there were several family members present at the house of the Accused's parents, and it appears unlikely that the deceased had the opportunity not only to write but to hide the suicide note in a seat cushion on the evening of 10.02.2018. Or alternatively, if it is assumed that she travelled from Dandora with a ready suicide note with her, it would mean that she made the long journey to Nkoroi to commit suicide at the Accused's home. That sounds an unbelievable proposition.
69. Besides, one would have expected that if the deceased did indeed commit suicide, to leave the note on or near her body or in her house where it could easily be found. And although the document examiner (PW11) confirmed without the qualifications he made in the earlier case, that the handwriting thereon resembled the deceased's, the note is undated. It is confounding that the note emerged two months after the alleged suicide, and no witness could shed light on the circumstances in which it was made.
70. There was evidence by PW1 and others that there had been a burglary at the deceased's house a few weeks before the material date, the very reason why PW1 dissuaded the deceased from spending the night there alone, but instead to stay in the witness's house that night. The deceased was not keen, because having slept on a bed in that house previously, she thought it was uncomfortable, but the witness apparently convinced the deceased who agreed, briefly went to switch off lights and returned. She left early on the next morning.
71. PW1 was not the only witness who engaged with the deceased on the night of 10.2.2018. According to PW3, at about 7:00pm on the night of 10.2.2018, the deceased had passed near her house and on seeing her and Dennis, exchanged greetings with them before she proceeded to her house, and thereafter returning to spend the night at PW1's house. Neither the deceased's mother PW3, nor PW1 and PW3 indicated that the deceased was distraught or in any way disturbed during their lengthy interaction, and indeed all the women in the Accused's household expected her to help in preparations at their mother-in-law's house on 11.2.2018.
72. Earlier, as the deceased left her mother's home at Dandora she notified her that she was headed to Nkoroi on the invitation of the Accused's mother. The two spoke twice on the phone on 10.2.2018 concerning mundane matters, the mother reminding the deceased to buy cooking oil, which she said she would buy on her way. Is it plausible that the deceased had determined to commit suicide as she travelled to Nkoroi? The court doubts that the profile emerging from the foregoing evidence is of a woman contemplating suicide.
73. The foregoing questions and evidence of the presence of a shoe print on the deceased's thigh and house wall, (per PW11 and PW15), and the manner in which the deceased was tethered to the bedpost appears to point to the involvement of a third person or persons, who may also have planted the note in the house of the 1<sup>st</sup> Accused. Most likely, someone in the Accused's family who would have had access to the house, and privy to the killing of the deceased.
74. There was no evidence of forcible entry into the house where the deceased was found after PW2 on the instructions of Dennis, used spare keys ordinarily kept in the house of Accused's parents, to gain access. Suggesting that the third party or parties may have accessed the house in the same way and locked it after killing the deceased, and in turn, the involvement of at least one or several members of the Accused's family who had access to the house spare keys.
75. Additionally, there are WhatsApp messages exchanged between the Accused and his brother Dennis in the period immediately after the alleged suicide, which reveal almost a state of rejoicing over the demise. I will revisit these later, but in my view all the foregoing strongly points to the possibility that the deceased was strangled by a third party or parties who made it appear to be suicide. In all probability,



her killers were lurking inside her house when the deceased returned there on the morning of 11.2.2018 and thereafter made good their escape, having locked the door.

76. The above deductions are supported by medical evidence tendered, namely, the contents of the post mortem report (P.Exh. 16 in the earlier case being part of the adopted evidence of PW17). The findings were :
- a. that the mouth of the deceased was mask-taped;
  - b. there were blood stains in the nostrils and the eyes were swollen;
  - c. that the face was congested;
  - d. there was an electrical cable measuring 150cm around the neck and there were ligature impressions on the neck.
  - e. the deceased was found to be pregnant with two foetuses.
  - f. the pathologist's conclusion was that the deceased died of ligature strangulation and chest compression.
  - g. the chest compression could not be self-inflicting.
77. The report was not seriously challenged at the trial. Chest compression was an externally inflicted injury. Moreover, this court was unpersuaded that the deceased could have hang herself from the position in which her body was found by the initial witnesses and police. Upon its own evaluation of all the relevant evidence, the court finds no reasonable basis for the suicide theory. On the contrary, there are reasonable pointers to support the conclusion that the death of the deceased was due to the unlawful acts or omissions of some person or persons, and judging from the circumstances, the said persons acted with malice aforethought as defined in Section 206 (a) and (b) of the Penal Code.
78. Having settled the above questions, the next pertinent question is whether the Accused herein committed the acts or omissions leading to the death of the deceased. There was no dispute that the mother to the Accused invited the deceased, in her capacity as the wife of her son to her home on the fateful weekend to assist in preparations for guests expected there on 11.2.2018. Indeed, there was evidence by several witnesses including PW16 that the said guests were at the home for a church fellowship or meeting between 2.00pm. and 4.00pm. The Accused's mother, PW1 and PW2 were among the family women who had noted the absence of the deceased on the morning of 11.2.2018 and tried her door and phone, without success.
79. While the Accused was in Dubai in the material period, he admitted in cross-examination that he was aware that the deceased had been invited to the Nkoroi homestead on the material weekend and that upset about the fact that his house had been burgled in her absence, threatened her about her intention to honor his mother's invitation. It was the evidence of PW6 that the deceased had called her on 10.02.2018 and confided that the Accused had warned her not to honor the invite, or risk eviction if she did. PW 13 produced exhibits 11,12 ,13 ,14 and 15 in relation to the telephone lines registered to Dennis, deceased and PW6 as well as call data for the relevant period. That the deceased indeed made a call to her aunt is confirmed by Exh. 12(a) showing an outgoing call from the deceased while at Dandora to the line registered to PW6 on 10.02.2018 at 10.51am.
80. Equally, although the investigators inexplicably failed to have the Accused's phone subjected to examination by PW14, the report (Exh. 17) prepared by the witness upon examination of the handset and line owned by Dennis reveals that the Accused was using three Dubai telephone numbers in the material period, which were saved on Dennis' phone as follows:



- a. 97XXXXXXXX- Bro. Morris
  - b. 97XXXXXXXX- Bro. Dubs
  - c. 971553430763- Dubai Morris
81. The latter number is captured on Dennis' incoming call log (Exh.12b) on 11.02.2018 at 15.39; 21.14 and on 12.02.2018 at 17.02. And in the deceased's log data (Exh. 12a) as having sent two text messages to the deceased at 21.28.35: 21.28. 30 and a call at 21.30, all on 9.02.2018. The latter fact giving credence to the evidence by PW6 that the deceased told her on 10.02.2018 that the Accused had called her and warned her not to travel to Nkoroi. Although it is unclear why the Accused in his WhatsApp messages exhibited no sorrow or grief, but rather a sense of satisfaction and relief about the death of his wife in his messages to Dennis, the court does not believe that this degree of animus arose merely because some burglary had earlier happened at his house during her absence.
  82. Rather, inasmuch as motive is not a necessary ingredient of the offence of murder, it appears more likely in the court's view that the Accused, who on his own account went to Dubai in August 2017 and never returned until over one year later, suspected that he was not responsible for the deceased's six-month pregnancy. Possibly, that was the angle police were looking at in procuring DNA confirmation through PW4 that both the deceased and the Accused were the parents of the twin fetuses being carried by the deceased at the time of death.
  83. The undisputed WhatsApp conversation and call log data for the period between 11.2.2018 at 15.33hrs and 23.2.2018 at 22.17hrs (produced by PW14 as P.Exh.17), retrieved from the Dennis' phone is telling. Although cryptic, the messages exchanged discuss events surrounding the deceased's death, the underlying tone suggesting that the death was "good riddance". Samples of the messages exchanged soon after the death are as follows:
    - (1) Message sent on 11/2/2018 at around 1533hrs from mobile No. 0XXXXXXXX (hereafter the sender) to +97XXXXXXXX (hereafter the recipient), a recipient saved as DUBS/Bro Morris: "Home si kuzuri yule wife wa Morris Priscilla"
    - (2) 11/2/2018 at 2103hrs from a different line No. +97XXXXXXXX saved as DUBS/Bro Morris by the above same sender of no. 0XXXXXXXX with content stating: "Mkae Ngumu Mambo itakua poa tutamsahau".
    - (3) On 11/2/2018 at 2119hrs from same sender above to the same recipient on +97XXXXXXXX, content: "Na hii picha isitumiwe mtu mwingine please".
    - (4) On 19/2/2018 at 0318hrs from +97XXXXXXXX (recipient) to unknown person, content: "Hizo mambo zikiisha hiyo hao gona wash it from everywhere"
    - (5) 19/2/2018 at 0319hrs from +97XXXXXXXX from Bro Morris (recipient) to sender: "Hizo vitu mutakunja azitupe zote"
    - (6) 19/2/2019 at 0320hrs from +97XXXXXXXX under the name Bro Morris sender content of message : "Everything vitu zake zitoke kwa hao yangu"
    - (7) 19/2/2018 at 0322hrs from No. +97XXXXXXXX - Bro Morris to sender: "I need to clear up my house hizo vitu zake need them out of my house".
    - (8) 19/2/2018 at 0323hrs from +97XXXXXXXX, Bro Morris to sender content: "I will send money mtu atoe zote"



- (9) 19/2/2018 at 03.30 hrs from +97XXXXXXXX Bro Morris sender, message:“U then all clean”
- (10) 19/2/2018 at 0839hrs from +25XXXXXXXX (sender) to +97XXXXXXXX to Bro Morris (recipient), content: “Tutatupa vitu ama tuzichome”.
84. The messages of 19.02.2018 render false the Accused’s account in his defence, that the discussion concerning the disposal of the deceased’s personal items in the Accused’s house came one year after death; this was just nine days after the death of his wife. The messages also reveal that the claim by the Accused that he had not been aware that he was required by police for questioning as false. On 23.02.2018 at 21:53pm, Dennis sent a message to the Accused informing him that the CID boss wanted to know when the Accused would come home. The Accused’s response at 21:54pm was: Kufanya nini, if he comes let me talk with him. His wife had died and his immediate family was being interrogated by the CID, but the Accused could not fathom why he should travel home?
85. Even if no formal summons had issued, he evidently did not consider it his duty to travel home to offer his evidence to police on the death of his wife, despite his aged parents together with siblings being eventually arrested, detained and eventually charged. Worse, he did not even travel to Kenya to attend his wife’s funeral, while keen to quickly rid himself of her personal effects left behind in his house. Indeed, the family of the Accused did not participate in the funeral of the deceased whom they all claimed to have accepted as Maurice’s wife. The Accused himself only travelled to Kenya when his sister died in October 2018 and in April 2019 to renew his passport and was arrested at the airport.
86. From the WhatsApp messages, Dennis played the role of keeping the Accused informed, having obviously early on sent him a photograph of the body of the deceased while cautioning him severally not to share it (see messages in Exh. 17 exchanged by the Accused and Dennis between 1956 hrs. and 2120 hrs on 11.02.2018).
87. Later Dennis warned the Accused to be careful what he told police, who were asking after him, if they contacted him. However, Dennis’ repeated refrain when Maurice appeared agitated by the investigations was what seemed a loaded caution to the effect that police wanafanya kazi yao - were doing their work- while the Accused reiterated that the deceased was alone in the house when she died. To which Dennis retorted: How sure are you? Stop guessing. Kama unaongea ivi, ukipigiwa be very careful. This exchange of cryptic messages appears to leave a lot unsaid.
88. The indifference to her death and hostility exhibited against the deceased in the Accused’s conduct and the messages with Dennis goes to confirm evidence by PW6 that the deceased had confided in her concerning her troubled relationship with Maurice, who had at the material time warned her not to go to his house and threatened her with eviction if she did. Evidence by PW3 was that on the night of 10.02.2018 Dennis borrowed his brother’s vehicle to go somewhere. His call log (P.Exh. 12(b) suggests that he spent long periods of time in the proximity of Magadi Road and Matasia area on the material night and next day, and probably until late afternoon when he was trying to raise the Accused and other brothers, per Exh. 17.
89. Reviewing the entire evidence on record, and more so the conduct and posture adopted by the Accused towards the demise of his wife, as emerges in the WhatsApp conversation with Dennis, it appears likely that the Accused and Dennis knew more about the circumstances of the deceased’s death than they cared to admit to the police or before the court. The Accused seemed almost glad she was dead, expressing care only about his own family members and his property. He was, on the evidence, relieved to be rid of the deceased for whom he showed utter disdain and was already encouraging his family in the message at 2103hrs (Exh. 17) on 11.02.2018 in Swahili slang, to remain steadfast, the matter would pass, and they would forget the deceased.



90. Whether or not the Accused and deceased as a couple had disagreements or not, the portrait of the Accused emerging from evidence on record is that of a coldhearted spouse. A husband unbothered by details of how his wife met her death, all because, in the court's view, he stood to benefit from her death by being rid of her before the delivery of the children she carried, in order to take back his house. The evidence casts grave suspicion against the Accused. However, the prosecution evidence does not close one critical loop, arising from the fact that during the material time, the Accused was in Dubai. The prosecution did not tender evidence to demonstrate that despite being in Dubai, the Accused procured others to kill or organized the killing of the deceased, as theorized by the prosecution.
91. The Accused's phone, like that of the deceased, was not subjected to examination and call log data tendered in respect of the deceased and Dennis did not cover a long enough period prior to the date of death. Their respective conversations would have shed more light on the question. Nor was any other evidence tendered to demonstrate specific actions or omissions by the Accused in furtherance of a scheme to eliminate the deceased, beyond the evidence of his obvious loathing and scorn towards the deceased, his apparent relief that she was dead, and his strange decision to remain in Dubai during and after the investigations into her death.
92. Dead men, or women for that matter, tell no tales, and the true circumstances of the deceased's death and consequently her two unborn children, will probably forever remain a mystery to her family. Be that as it may, a court of law can only pronounce itself on the basis of the facts before it and the law.
93. In *Musili Tulo -vs- Republic* [2014] eKLR the Court of Appeal reiterated the need to closely examine circumstantial evidence before making an inference of guilt, the object being to ascertain whether such evidence satisfies the principles spelt out in the case of *Kipkering Arap Koske* and in *Musoke's* case. In *Tulo's* case, the Court restated the principles as follows: -
- “i) The circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;
  - ii) Those circumstances should be of a definite tendency unerringly pointing towards the guilt of the Accused;
  - iii) The circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the Accused and no one else.”
94. The Court went on to state that:
- “In order to ascertain whether or not the inculpatory facts put forward by the prosecution are incompatible with the innocence of the Accused and incapable of any other reasonable hypothesis than that of guilt, we must also consider a further principle set out in the case of *Musoke -Vs- Republic* [1958] EA 715 citing with approval *Teper -Vs- Republic* [1952] A.C. 480 thus:
- “It is also necessary before drawing the inference of the Accused's guilty from circumstantial evidence to be sure that there are no other co-existing circumstances which weaken or destroy the inference.” (Emphasis added)
- See also *Ahamad Abolfathi Mohamed & Another v. R* [2018] eKLR and *Beena Nwabdiri Bdzyta v R* [2008] eKLR.



95. Applying the above principles to the facts of this case, the court concludes that the prosecution has failed to prove beyond reasonable doubt, that the Accused jointly with others executed or organized the execution of the unlawful act or omission leading to the death of the deceased, and ultimately, the offence preferred against him. Accordingly, the Court must acquit the Accused of the charge of Murder contrary to Section 203 as read with section 204 of the Penal Code. It is so ordered.

**DELIVERED AND SIGNED AT KAJIADO ON THIS 8<sup>TH</sup> DAY OF OCTOBER 2025.**

**C.MEOLI**

**JUDGE**

In the presence of:

For the State: Mr. Kilunda

For the Accused: Mr. Onserio

Accused : Present

C/A: Lepatei

