



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kamathi (Criminal Case 58 of 2023)
[2025] KEHC 15290 (KLR) (Crim) (30 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15290 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CRIMINAL
CRIMINAL CASE 58 OF 2023
KW KIARIE, J
OCTOBER 30, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER NJUGUNA KAMATHI ACCUSED

JUDGMENT

1. Peter Njuguna Kamathi is charged with an offence 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 30th day of January 2021, at Weru Trading Centre, in North Kinangop Sub-County of Nyandarua County, murdered Edicah Marete.
3. The deceased and the accused disagreed at a borehole. The deceased slapped the accused. When the deceased left the borehole, the accused pursued him and stabbed him.
4. In his defence, Peter Njuguna Kamathi, the accused, denied any involvement in the offence.
5. The issues to be determined are:
 - a) Whether the accused stabbed the deceased; and
 - c) Whether the offence of murder was proven against the accused.
6. Paul Waithaka Gitata (PW6) was at the borehole where the incident took place. His testimony was that he saw a confrontation between the accused and the deceased. As a result, the deceased slapped the accused. They separated the two. The deceased took his containers and began walking toward the Centre. He was also heading in the same direction. The accused approached from behind while



running. The accused and the deceased went on, while he (PW6) was entering a junction. The deceased saw him standing outside Amani Bar and shouted that he had been stabbed.

7. This was the only evidence that pointed to the accused as the deceased's attacker. A conviction can be secured on the evidence of a single witness. This was stated by the Court of Appeal for Eastern Africa in *Roria v Republic* [1967] EA 582. The Court held:

...it is legally possible to convict on the uncorroborated evidence of a single witness identifying an accused and connecting him with the offence, ...

8. The accused, in his defence, contended that he was not at the scene of the incident. The Court of Appeal in the case of *Kiarie vs Republic* [1984] KLR, held:

“An alibi raises a specific defence, and an accused person who puts forward an alibi as an answer to a charge does not, in law, thereby assume any burden of proving that answer, and it is sufficient if an alibi introduces into the mind of a court a doubt that is not unreasonable.”

9. The evidence against the accused is circumstantial. In the case of *Mohamed & 3 Others vs Republic* [2005] 1KLR 722, Osiero, Judge, restated what is circumstantial evidence as follows:

“Circumstantial evidence means evidence that tends to prove a fact indirectly by proving other events or circumstances which afford a basis for reasonable inference of the occurrence of the fact at issue. The circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved.”

10. Although the accused denied being at the scene where the deceased was stabbed, there is no evidence to suggest he was falsely implicated. I find that the evidence on record disproves his alibi defence.

11. To secure a conviction based on the evidence on record, the prosecution must prove the existence 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).

12. 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.

12. The deceased and the accused argued, leading the deceased to slap the accused. Those present had to step in and separate them. The prosecution did not provide evidence of malice aforethought. I therefore find that the prosecution has not proven the murder charge against the accused. However, they have proved, beyond a reasonable doubt, the lesser offence of manslaughter. As a result, the charge of murder is substituted with manslaughter. I find the accused guilty of manslaughter under Section 202, read with Section 205 of the Penal Code.

DELIVERED AND SIGNED AT NYANDARUA, THIS 30TH DAY OF OCTOBER 2025

KIARIE WAWERU KIARIE

JUDGE

