



**Republic v Kang'ere (Criminal Case 17 of 2023)
[2025] KEHC 14974 (KLR) (Crim) (27 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14974 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CRIMINAL
CRIMINAL CASE 17 OF 2023
KW KIARIE, J
OCTOBER 27, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PHILIP MAINA KANG'ERE ACCUSED

JUDGMENT

1. Philip Maina Kang'ere 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 in count are that on the 13th day of May 2019, at Gathondia village, in Nyandarua West Sub-County of Nyandarua County, he murdered Alice Wambui Njuguna.
3. The deceased was approximately 9 years old at the time of her death. She was the niece of the accused. The prosecution argues that the accused locked himself in the house with the child to commit an offence against her. When his plan was foiled, he was struck with an iron bar, resulting in her death.
4. Philip Maina Kang'ere, the accused, claimed that when his brothers were beating him on allegations that he had insulted people, the child was hit with the iron bar aimed at him.
5. The issues to be determined are:
 - a) Whether the accused was the one who hit the deceased; and
 - c) Whether the offence of murder was established against the accused.
6. Patrick Mwangi Kange're (PW1) testified that the accused is his brother. His son informed him that the accused had locked himself in the house with the deceased. He went and peeped through a crack and



- saw the accused lying on the child on the bed. This evidence was confirmed by Alice Wambui Kang'ere (PW2), their mother and Anastacia Njoki (PW3), their neighbour, who responded to the distress call.
7. When the child was eventually removed from the house, she had an injury on her head.
 8. Dr Kibet conducted a post-mortem on the body of the deceased. The report states that she had an open wound on her forehead with a fractured skull. The skull was also fractured in the occipital region, with brain tissue clearly visible. He concluded that she died from severe haemorrhage secondary to major head injuries.
 9. The contention of Philip Maina Kange're, the accused, was displaced by the evidence on record. The prosecution has proven that he inflicted the fatal injuries to the deceased.
 10. To secure a conviction based on the evidence on record, the prosecution must establish 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).
 11. 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 young girl was brutally murdered by the accused. The act was premeditated, which confirms malice aforethought. The prosecution has proven the charge beyond a reasonable doubt. I find him guilty and convict him of murder.

DELIVERED AND SIGNED AT NYANDARUA, THIS 27TH DAY OF OCTOBER 2025

KIARIE WAWERU KIARIE

JUDGE

