



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Mugambi (Criminal Case 29 of 2015)
[2025] KEHC 14885 (KLR) (15 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14885 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 29 OF 2015
SM GITHINJI, J
OCTOBER 15, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPH GIKUNDI MUGAMBI ACCUSED

JUDGMENT

1. Joseph Gikundi Mugambi is charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code Cap. 63 Laws of Kenya.
2. The particulars of this offence are that on the 13th day of July, 2013 at Shauri Estate within Muruati Market, Kabachi Location, Igembe North Sub-County within Meru County, the accused jointly with another not before Court murdered Selesio Ntarangwi.
3. The prosecution case is that PW-1 in this case is a Miraa dealer at Mutuati, while PW-2 is a Miraa farmer in the said area. On 13/7/2013 at about 2:00pm PW-1 was at Mutuati market at Shauri area, while PW-2 was from his Miraa farm at Mbura-Njiru, heading to Mutuati. The two saw the deceased heading to Mutuati carrying Miraa. PW-1 asked him to sell to him the Miraa. He [the deceased] then headed towards where PW-1 was. PW-2 was behind the deceased at the time. Before the deceased reached where PW-1 was, two men, Joseph Gikundi Mugambi and Kimathi appeared. Joseph Gikundi Mugambi had a panga while Kimathi had a C-line [a long panga]. The two went and got hold of the deceased. Joseph Gikundi Mugambi demanded to be paid his 20Kshs by the deceased. The deceased said he had 100Kshs note. He gave it to Joseph Gikundi Mugambi and demanded for the 80Kshs balance.
4. Joseph Gikundi Mugambi declined to give him change, saying he needed his money together with interest. The deceased and Joseph Gikundi Mugambi faced each other. It is then the accused [Joseph Gikundi Mugambi] attacked the deceased with the panga he had. He cut him on the left side of the head prompting him to fall down. He then cut him severally on the head while down. Kimathi took the



Miraa the deceased had. PW-1 and PW-2 screamed for help. PW-1 attacked the assailants by throwing stones at them. The assailants then escaped. PW-1 told PW-2 to watch over the victim as he run to call his family members. PW-1 went and called the deceased's brother, Isaac Raibuni . He returned to the scene in company of the said brother and took the deceased to Maua Methodist Hospital. PW-4 left them there and went away. On 9/8/2013 Isaac Raibuni told PW-1 that the deceased had passed on. They went and reported the case at Mutuati Police Station.

5. On 12/8/2023 at 12:45pm postmortem was conducted on the body of the deceased person at Meru Level 5 Hospital by Dr. Kilemba James. The doctor noted that the body had sutured cut wounds on the left temporal region and left parietal region. There was blood in the brain. He opined that the cause of death was as a result of severe head injury on the left side leading to intracranial hematoma, due to blunt force trauma.
6. The accused gave sworn evidence and called no witness. In his defence he stated that he hails from Igembe North, Mutuati. Before his arrest he was working as a butcher for Maili, both at Meru and Mombasa. He denied knowledge of the deceased in this case. On 13/7/2013 he alleged that he was at Bamburi in Mombasa. He alleged he was arrested as the deceased died near his meat hotel in Meru. He denied knowledge of whoever killed the deceased. In January 2015 he was arrested on a different matter while in Kilifi. It is then he was framed up on this murder charge.
7. At this juncture, the court is obliged to determine whether the offence is proved by the prosecution against the accused person, beyond reasonable doubt.
8. Section 203 of the Penal Code defines the offence of murder as follows:-

“ Any person who of malice aforethought causes the death of another person by unlawful act or omission is guilty of murder.”

Section 204;

“ Any person convicted of murder shall be sentenced to death.”
9. From the foregoing provisions, to prove the offence of murder, the prosecution must establish the following ingredients beyond reasonable doubt:-
 1. The fact of death of the deceased;
 2. The cause of death [that the death resulted from an unlawful act or omission of the accused].
 3. Proper identification or recognition of the accused as the person who committed the unlawful act or omission; and
 4. That the accused had malice aforethought [intention to kill or cause grievous harm]
10. In this case, the fact of death is not disputed. The evidence of PW-3 shows the deceased died as a result of severe head injury on the left side, leading to intracranial hematoma, due to blunt force trauma. A postmortem report was produced as an exhibit to the said effect. The fact is therefore established by the prosecution beyond reasonable doubt.
11. On whether it is the accused who caused the death of Selesio Ntarangwi, the prosecution called two eye witnesses who knew both the deceased and the accused for years. The two saw the accused clearly, at about 2:00pm, in company of another called Kimathi. The two accosted the deceased where the accused demanded to be paid 20Kshs by the deceased. He was given 100Kshs note and refused to give him the change of 80Kshs saying it was interest for the delayed payment. He then struck the deceased



with the panga he had on the left side of the head and when he fell down as a result, attacked him further. Kimathi took the Miraaa the deceased had before they escaped. The two witnesses testimonies corroborates closely leaving no doubt that they are witnesses of truth. They had no cause to fix the accused, and their testimonies were not shaken by the intensive cross-examination of the accused's counsel.

12. The evidence firmly establishes, and that is beyond reasonable doubt, that it is the accused who inflicted to the deceased the injuries that led to his death. He was rightly recognized as the real culprit.
13. Finally on malice aforethought, the accused used a dangerous weapon, a panga to attack on the deceased who was unarmed. He was the aggressor. The attack was on the head and not once. The severity of the injuries as well shown by the evidence of PW-3 shows his clear intention to cause death or grievous harm to the deceased.
14. The defence is of were denial. The availed alibi is an afterthought and was not supported by any evidence, save for mere allegation by the accused. It stands no chance of truth given the weighty, reliable evidence by PW-1 and PW-2 that it is the accused who committed the offence. His defence is thus dismissed.
15. I therefore find that the prosecution has proved all the ingredients of the offence of murder beyond reasonable doubt. I find the accused guilty of murder and convict him accordingly under Section 215 of the Criminal Procedure Code.

DATED AND DELIVERED AT MERU THIS 15TH OCTOBER, 2025

S.M. GITHINJI

JUDGE

Apperances:-

Accused present.

Ms. Adhi for the state.

Mr. Ng'entu for the accused person.

Prosecutor:

We have no previous record, we pray for a date for mitigation and sentence. We can also have a Pre-sentence report.

Mr. Ng'entu:

We can have a date as suggested.

Court:

Pre-sentence report be prepared by a Probation Officer.

Mitigation and sentencing on 12/11/2025.

S.M. GITHINJI

JUDGE

15/10/2025

