



**Republic v Gachie & another (Criminal Case E047 of 2024)
[2025] KEHC 14990 (KLR) (Crim) (14 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14990 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E047 OF 2024
AM MUTETI, J
OCTOBER 14, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

MAUREEN MUTANU KIOKO GACHIE 1ST ACCUSED

MICHAEL OTIENO ALIAS MISE 2ND ACCUSED

RULING

1. The court having been informed by counsel for the 2nd Accused the position of the victims family in regard to the case against the 2nd Accused has put that information to PW 1 and PW 2 who were in court today.
2. The two confirmed that indeed there are discussions along the lines suggested by counsel for the 2nd Accused. This court has also heard the views of counsel for the 1st Accused who has also expressed willingness to engage the DPP and the deceased person's family on this matter, with a view to having the charges reviewed.
3. The prosecution counsel on her part states that the information has just been passed to her in court.
4. The state indicated its desire to proceed with the two witnesses present in court notwithstanding the position of the victims. This court is now called upon to decide whether to allow time for consultations between the ODPP, the victims and the two accused persons through their counsel. The court takes cognisance of the fact that the accused persons face a very grave charge which attracts a death sentence. It is not a matter that can be taken lightly by anyone.
5. If the victims feel that there is reason for the DPP to review his decision to prosecute the 2nd Accused or any of them, they are within their rights under Section 9, 13, 15 and 20 of the Victims Protection



Act No. 17 of 2024 to approach the DPP and make their views on the matter known. The DPP on the other hand under Article 157 (11) of *the Constitution* is under duty to prevent abuse of process of the court and to protect the interests of the Administration of justice. As such the DPP has the duty to hear the victims and address their concerns. It is not tenable to proceed with a hearing just for the sake of it. If there is a possibility of review of the charges which the ODPP through Ms Njoroge prosecution counsel has not ruled out, then that process must be given a try.

6. To put a man to trial for murder when the victims are not persuaded that the charges are properly founded is a matter that should prick the conscience of the prosecutor.
7. Obviously, the decision to prosecute will be weighed on the scales of evidence and the public interest.
8. The view of victims' must be taken into account. See *Lendrix Waswa Vs. Rep Petition No. 23 of 2019 [2020] KESC 23 (KLR)*.
9. The rights of complainants under Article 50(7) and their right to access justice under Article 48 of *the Constitution* must be protected and promoted.
10. Accordingly, this court is inclined to grant the request to have counsel for the accused person as well as the victims' family engage the DPP on this matter before further proceedings are undertaken.
11. Accordingly, the hearing is adjourned to pave way for consultation and parties shall report back to this court on 3/11/2025 when the court shall issue further directions in the matter.
12. It is so ordered.

DATED, SIGNED and DELIVERED VIRTUALLY at NAIROBI this 14TH day of OCTOBER, 2025.

A. M. MUTETI

JUDGE

In the Presence of: -

Coram: Before Hon. A. M. Muteti, J

Kiptoo: Court Assistant

Ms. Njoroge for the state

Nguono for the 1st Accused

Adier for 2nd Accused

Accused: 1st present

2nd – present

