



**Julius v Republic (Criminal Appeal E041 of 2024)
[2025] KEHC 16457 (KLR) (11 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 16457 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL APPEAL E041 OF 2024
SM GITHINJI, J
NOVEMBER 11, 2025**

BETWEEN

PATRICK KIMATHI JULIUS APPELLANT

AND

REPUBLIC RESPONDENT

JUDGMENT

1. Patrick Kimathi Julius, the Appellant herein, was the second accused in Maua Criminal Case No. 2485 of 2016 where he was charged jointly with another, one Patrick Mutwiri Kubai with the offence of Robbery with violence, Contrary to Section 295 as read with Section 296 (2) of the Penal Code.
2. The particular of this offence are that on the 27th day of May, 2016 at Laare town, Antuambui Location in Igembe North Sub- County within Meru County, the Appellants jointly being armed with an offensive weapon namely a knife robbed Shadrack Mutuma of Cash Kshs 16,000/= and at the time of such robbery used actual violence to the said Shadrack Mutuma.
3. The Prosecution case is that the victim in this case was operating a shop at Laare Market. On 27/5/2016 at around 8:00pm he closed one of his shops. He received cash money 16,000/= in a polythene paper bag from the Mpesa shop. He used the back door which led to a corridor on the way out. He met two men along the said corridor. He know both physically. The Appellant herein blocked his way. The 1st accused demanded for the money he had in the polythene paper bag. The victim refused to give them the money. The 1st accused stabbed him using a Somali sword. He was stabbed once. He screamed. PW-2 heard the screams. He rushed to the scene. He met two men escaping, a taller one and a shorter one. The shorter one had a knife. PW-3 and PW-5 also had been attracted to the scene by the distress cry of the victim. He saw the two assailants as they escaped. 1st accused had a knife. All these eye witnesses knew the assailants physically and were able to recognize them using a 100 watts bulb which the victim had placed on the corridor. The assailants were chased after but escaped into the market. They were miraa dealers in the said market.



4. The victim was taken to St Teresa Mission Hospital suffering from a stab wound in the stomach. He was admitted on 28/5/2016 and discharged on 30/5/2016.
5. The matter was reported at Laare Police Station where a P. 3 form was issued. It was filled on 6/6/2016 and shows that he had a sutured wound on the stomach, caused by a sharp object. The degree of injury was assessed as grievous harm
6. The accused were later identified by the complainant and arrested. They were charged with the offence carried in the charge sheet.
7. The Appellant gave a sworn testimony in his defence where he stated that he was operating a kiosk at Kirumuru Village. On 27/7/2016 his father got to his kiosk and urged him to leave and go take care of his goats. He was not to leave till the father returned. He closed the kiosk at 4:00pm and went to mind the goats, His father returned the following day in the morning and the Appellant went back to his kiosk. Three months later, he was arrested and charged for an offence he did not commit.
8. The trial Court evaluated the evidence and found both accused guilty of the offence charged with. They were convicted of it and sentenced to death.
9. They appealed separately and the first accused appeal was dismissed for want of merit on 20th December, 2024.
10. The Appellant herein have preferred this appeal on the grounds that:-
 - A. Identification Parade was not conducted in this case.
 - B. The Appellant was not identified at the scene of crime.
 - C. The evidence was not properly evaluated and the wrong verdict was entered.
 - D. The meted sentence is harsh and excessive.
 - E. The Appellant's defence was not considered.
11. The Respondent opposed the appeal, which was canvassed by way of Written Submissions, to which both parties filed their respective Submissions.
12. As the first Appellate Court, I have re-evaluated the evidence so as to draw own independent conclusions, while bearing in mind that I did not see or hear the witnesses testify.
13. For an offence of Robbery with violence under Section 296(2) of the Penal Code, the Prosecution must prove the ingredients as were well pronounced in the case of Omoth –vs- Republic [1985] KLR; beyond reasonable doubt.
The Ingredients are:-
 - i. If the offender is armed with any dangerous or offensive weapon or instrument; or
 - ii. The offender is in company with one or more other person or persons; or
 - iii. At or immediately before or immediately after the time of the assault, the offender wounds, beats, strikes or uses any other personal violence to any person.
14. The foregoing ingredients are in alternate and all, or any of them if established beyond reasonable doubt would suffice for the offence.



15. The incident in this case happened at 8:00 pm which definitely was at night and the issue of proper identification or recognition must be weighed.
16. There are four eye witnesses in this case who are PW-1, PW-2, PW-3 and PW-5 . PW 1 disclosed he had a 100 watts bulb along the corridor where the incident occurred. Other witnesses corroborates the fact that there was ample electric light. All of them knew the assailants physically before then, as they were miraa dealers in the Market. They were able to recognize them. The first accused was described as bow legged. He is the one who had the knife, stabbed the victim and took the money. The Appellant herein blocked the victim as he was leaving the shop and instructed the 1st accused to pick the polythene paper bag which had the money. When the victim was stabbed and money taken, he screamed and both assailants as escaped. They were seen and recognized by PW-2; PW-3 and PW-5 before they escaped. It is the victim who pointed them to the police during the arrest. As the Lower Court found, and the appellate Court in the appeal for the 1st accused, the circumstances favoured positive recognition and the assailants were sufficiently recognized. They were two and armed with a knife. They used it to stab the victim and take his 16,000/=. The circumstances establishes a case of robbery with violence.
17. The meted death sentence under Sections 296(2) of the penal Code is lawful. Muruatetu decision by the Supreme Court on death sentence does not apply to the offence in this case.
18. The end result is that the appeal on both conviction and sentence fails and is accordingly dismissed.

DATED AND DELIVERED AT MERU THIS 11TH DAY OF NOVEMBER, 2025.

S. M. GITHINJI

JUDGE

Appearances:-

Appellant present in Person.

Ms. Adhi for the state.

