



**State v Ooro (Criminal Case E020 of 2024)
[2026] KEHC 116 (KLR) (19 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 116 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E020 OF 2024
DK KEMEL, J
JANUARY 19, 2026**

BETWEEN

STATE PROSECUTOR

AND

WILSON ADUOR OORO ACCUSED

JUDGMENT

1. The accused herein Wison Aduor Ooro has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on 30th day of July 2023, at Nyandusi village, Kapiyo Sub Location, Sakwa Location, Bondo Sub County within Siaya County, jointly with others not before court murdered one Mary Adhiambo Okoth.
2. The prosecution called eleven witnesses in support of its case.
3. Erick Otieno Okoth (PW1) testified that he is a medical doctor and that on 29/7/2023 at about 4.00 pm - 5.00 pm he received a call from his wife Quinter Adhiambo who informed him that their mother Mary Adhiambo Okoth was not in church as it was a sabbath day. That she and another relative decided to pass by their mother’s house and found the house locked. That he rushed home and peeped through the window and saw the body of their mother lying on her bed. That he called the area chief Peter Teko who instructed them not to interfere with scene as there might have ben a homicide. That the DCI Bondo was alerted and who arrived at 7pm and saw the body through the window. That one of the workers Fredrick Oyworo was directed to remove one iron sheet and then entered the bedroom and then opened the door for all of them. That they entered the bedroom and found the body lying on the bed and there was blood oozing from the mouth and nose. That the officers removed the blanket and saw that she was naked. That he did not suspect anybody until a certain lady claimed that there was money in the bedroom and must be secured. That the body was taken to the morgue. That they came back at 9.00 pm and that the chairlady of the welfare group arrived to check on the group’s money. That the safe box had been broken and that it was discovered that a sum of Ksh170,000/= was missing.



That an autopsy was conducted on the body of the deceased and it was discovered that the deceased had been hit with a blunt object and that there had been some commotion in the house. That both doors had padlocks. That the deceased used to stay alone. The accused herein is a son to his cousin and used to live with the deceased on and off. That the accused had disappeared from the area until he was smoked out from Mombasa area and that it took them a lot of effort to find the accused. That the suspected accused of the offence and that the witness was convinced that accused was responsible for the death of the deceased as accused phone was switched off and that he could not be traced. That accused could call people using private lines. That the witness gave the DCI the numbers and who managed to locate the accused herein.

On cross examination, he stated that he is a medical doctor and that he works but is on off duty on sabbath days. That accused could visit him sometimes. That accused was then a student whose routine was clear. That he did not witness accused stealing the deceased's foodstuffs. That he did not see the accused calling deceased using private numbers. That he did not file a report with the police over accused's conduct of defrauding the deceased as claimed by deceased. That he lived near the deceased who had workers at home. That one of deceased workers was at the compound as he used to look after animals and that his sister resided in one of the houses within the homestead. That accused lived in the same compound and that he maintains that accused was at the scene of crime.

4. Elizabeth Atieno (PW2) testified that on 29/7/2023 she had prepared to go to church when his brother in law Fred knocked and alerted her that he could not see the deceased who was his mother in law. That he claimed the deceased's door was still closed. That he had gone to the said house and found it still locked and it was not possible to see through the windows and that he even tried to call her name and there was no response. That even chicken coops had not been opened. Later PW2 went to church whereupon female members enquired about the whereabouts of the deceased. That in the afternoon, her father in law inquired the whereabouts of the deceased and that PW2 alerted her Co-wife (Quintor). That they proceeded to deceased's house and tried to peep through the window and she later they alerted their brother in law Eric to rushed to the scene and who upon alerted the area chief. That the area chief rushed to the scene. Later the DCI officers arrived at the scene and tried to access the house. That they entered from the roof then opened the doors for others to access. That she did not know the person behind the death of the deceased and that she could not tell if the accused person was involved in the same.

On cross examination, she stated that she lived in the same compound with the deceased and who lived 20-30 metres away from her house. That Poul and Mike were gardeners while Fredrick Onyango was a brick maker together with Erick Onyango. That accused had already moved out of the compound when the incident took place. That her father in law (Walter Okoth) who works in Oyugis area of Homabay County is the one who alerted them of the incident yet they lived in the same compound.

5. Quintan Adhiambo Okoka (PW3) testified that he recalls on 29/7/2023 that he woke up from his house and went to church as it was a sabbath day. That her mother in law attended a different church. That later, they went to have a joint meeting at Kot Kodeya SDA church where she expected to see the deceased (her mother in law) but the deceased did not turn up. That she assumed that the deceased had opted to relax after harvesting. That they went on with the church programme upto around 4.00pm. Later, again her father in law called Elizabeth to inquire on the whereabouts of their mother in law and that they went to the deceased's home and found all the doors locked. That they enquired from Michael who took care of the cows and who denied having seen the deceased. That the witness informed her husband (PW1) who rushed home and that they checked the house. That PW1 informed other relatives who later decided that one of the window panes be broken and it was then they saw deceased's body lying on her bed. That chief was alerted and rushed to the scene and who advised that they should not interfere with scene. Chief called police from Bondo who instructed one of the workers



to gain access through roof and opened the doors. That they were able to access the house and found the body lying facing down on her bed and covered with a blanket. That there was small padlock on the floor. That the body was taken to morgue. That accused herein had been staying with deceased and that deceased had raised complaints of theft of house items. That accused disappeared immediately after the incident. That PW3 knew accused for a long time and that accused had been around at the time of the incident.

On cross examination, she stated that she had not seen accused on the material date. She did not lodge a report of withdrawal of money from deceased's phone. That she operates the business at Bondo during the day and comes back in the evening. That accused could go to her house frequently because they are family. That she did not witness the incident. That she did not recover stolen items and any money from accused.

6. Margaret Ongala (PW4) testified that she recalls that on 29/7/2023 she received the report when the body of the deceased had been taken to the morgue. That the deceased herein was her sister. That she received the report from her daughter in-law and that the accused herein is her grandson and that he used to live with the deceased. That she doesn't know how he is involved in the incident.

On cross examination, she stated that they had a grand welfare for about seven years. That the group members are about fifteen in number. That the deceased was the treasurer of the group while PW4 was the chair person. That she cannot tell the amount of money raised by the group during the last meeting. That they do not take the money to the bank as it was meant to be loaned to members as it was a form of table banking. That money was to be distributed afterwards and that the treasurer was to keep it in her custody as it has been the trend and that nobody else knew about the issue of money.

7. Walter Okoth Oyuor (PW5) testified that he recalls that on 29/7/2023 he was at Oyugis and that the deceased was his wife. That he tried to reach her that day in vain. That they had some workers in the compound and it was on a sabbath day. That the workers alerted him that his wife was not at home. That he became suspicious and decided to alert other family members. That he made several calls to the deceased in vain. Later he called Elizabeth enquired from her the deceased's whereabouts. That they later informed him that the deceased's house was locked. That he later learnt that the deceased body was found lying on the bed. That PW5 went to the scene on 30/7/2023 and found the body had been taken to the mortuary and that he was allowed to view it. That PW5 was briefed about the incident and that accused herein is a grandson and that he was taking care of his school fees. That accused disappeared immediately after the incident. That he could not know if accused was in the compound on 29/7/2023 as he was concerned about his disappearance after the incident.

On cross examination, he stated that he had no disagreement with the accused save only for his refusal to go to school. That he travelled from Oyugis on 30/7/2023 to Bondo.

On re-examination, he stated that he travelled to Bondo on 30/7/2023 and that the incident happened on 29/7/2023.

8. Mary Atieno Ooro (PW6) testified that she recalls on 28/7/2023 she went to the house of Mary Adhiambo Okoth who was her neighbour and friend to charge mobile phone and had a chat upto 8.00 pm when she left for her house. That the next morning she left for church and remained there up to 5.00 pm. That later she received a call from Queen requesting her to pass by their place. That she found many people including the chief who directed that nobody was to torch anything until the police arrived. That she peeped through the window and she saw the body of Mary Akoth. That all the doors were locked and that somebody had to access the room through the roof and the body was taken to the mortuary. That she did not know the person behind the death of the deceased. That she knew accused herein as her grandson whose name is Awili Wilson.



On cross examination, she stated that the deceased's name is Mary Okoth Adhiambo. That there was a small gate at the compound which was always not locked. That the deceased was alive and healthy when she visited her that evening. That deceased used to keep money as she was the treasurer of their group in which she was a member. That the membership was restricted to ladies only except one male who was the secretary.

9. Fredrick Onyango Onywero (PW7) testified that he recalls on 28/7/2023 he was working at the compound of the deceased by making bricks and was with a colleague called Eric Onyango. That the following morning which was Saturday they found that the deceased was not around and that the chicken had not been released. That they did not suspect anything had they went on working. That later one Mike arrived and made inquiry about the deceased. That PW7 went to her sister in law Elizabeth and enquired about deceased's whereabouts and that the in law had no information. That they decided to call out the deceased's name in vain. That Elizabeth left for church as they went on working up to 3.30 pm and left. That later at 4.00 pm, PW5 called inquiring about the whereabouts of the deceased. That he briefed him about the situation. That he sent him the wages for that day. That he went to his house to rest. That later, at 6.00 pm PW5 called to inquire he was still around and that he directed him to rush to his house and remove one of the iron sheets on the roof to enable someone to gain access into the house. That one of the relatives had already smashed the window pane and that they were able to see the body of the deceased lying on the bed. That he later got onto the roof and removed one iron sheet and gained access into the room and he managed to open the door to allow the police officers enter into the room. That the body of the deceased was taken to the mortuary. That the accused is his brother's son.

10. Dan Omondi Ong'ombe (PW8) stated that he had been a member of a welfare in which the deceased was the treasurer while he was the secretary. That the deceased used to take money inside a metallic box which had two padlocks. That the said box was found to have been broken and the money stolen. That the accused herein used to stay with the deceased while attending school.

On cross examination, he stated inter alia; that all members of the welfare group knew that the deceased kept the money in the metal box. That the money was being shared out amongst members while the remainder is kept in the box. That they did not know the specific place the deceased kept the metal box.

11. Daniel Wanjovu Juma (PW9) was the pathologist who conducted the autopsy at Lwak Hospital mortuary. On examination, he noted inter alia; swollen face with blood stains; pelvic organ collapses on the genitalia region; hemorrhagic congestion on the occipital and skull. He formed the opinion that the cause of death was cardio respiratory failure secondary to asphyxiation and head injury. He produced the autopsy report as exhibit No. 2.
12. No. 239564 IP Silas Mutua (PW10) was the investigating officer. He stated that he visited the scene at Nyangusi village and found all the doors locked and access had to be made via the roof. That they found the deceased lying dead on her bed and covered with a blanket and that mucus and blood oozed from her nostrils. That there was a head injury. That items in the bedroom had been scattered and that there was a broken padlock on the floor. That there was a bluish metallic box that was suspected to contain money. That there was a small window which the intruder must have gained access. That the scene was photographed. That he established that the deceased was a treasurer of some local group and was the custodian of the money. He organized for the autopsy which took place on 1/8/2023 at Lwak Mission Hospital. That during investigations he established that there was a young man who lived with the deceased and who used to be assisted with fees by the deceased and her husband. That the said young man disappeared to Mombasa and was arrested one year later. He produced the grey metallic box as Exhibit No. 1.



On cross examination he stated inter alia; that he recorded statements of witnesses who indicated that the accused worked at the home of the deceased; that he did not take finger prints on the metallic box as the same is a rough surface; that the deceased died of asphyxiation. That one of the witnesses Mary Akello claimed to have seen the accused on 1/8/2023. That the accused having lived with the deceased had known all the corners of the house both inside and outside. That a sum of around Ksh170,000/= was stolen. That no money was recovered. That he did not use phone technology to place the accused at the scene. That all the witnesses have implicated the accused.

On re-examination, he stated that he did not find the accused at the scene. That he used mobile technology to locate the accused in Mombasa.

13. No. 66783 Cpl Simon Likonyi (PW11) stated that he was a scene of crimes officer. That he received a CD Disk from the investigating officer Silas Mutua of DCI Bondo which contained images or exposures taken at the scene of murder. That the photographs had been taken by use of a mobile phone Tecno Camon 19 and IMEI number 356487586382839. That he printed the photos under his supervision. He produced ten photographs as Exhibit 3b and the certificate Exhibit 3a.
14. At the close of the prosecution's case this court ruled that accused herein had a case to answer. He was thus placed on his defence. He tendered a sworn testimony and called one witness.
15. Wilson Aduor Ooro (DW1) stated that he knows the deceased who was his grandmother and with whom he had lived from August 2021. That he left the area in January 2022 and joined his parents in Nyandusi village. That on the material date namely 29/7/2023 he was in Mombasa having travelled there on 25/7/2023. That he had used a motor bike from the village to Bondo town and that the rider was one David Ochieng Amito. That from Bondo he took a matatu to Kisumu from where he boarded a bus to Mombasa. He was newly employed in Mombasa and therefore could not attend the deceased burial. That he worked in a Liquor store in Mombasa. That his mother Evaline Atieno was aware of his trip to Mombasa. That he did not kill the deceased. That he was not living with the deceased at the time of her death. That he identified a bus fare receipt dated 25/7/2023 which was marked as DMFI 1.

On cross examination, he stated that he is aged 21 years old. That his mother is Everlyne Atieno Abunge and who is currently at home in Nyandusi village. That he left home today at 7.00 am and that his mother was not feeling well and thus could not attend court. That he was the last born in the family of six children. That he knew the deceased with whom he lived with. That his grandfather was a brother to the deceased's husband. That he was aware of the charge of murder herein and that the incident took place on 28/7/2023 and not 28/7/2024. That he lived with the deceased from August 2021 to January 2022. That in 2021 he worked in some gold mine and came back on 4/1/2022 only for the deceased to decline to have him stay with her as I had gone without permission. That he was at Rapimbo mines at the time courtesy of the owner Siprose who is my aunt. That the son of the deceased by name Eric had fired him from employment. That he was working for Eric who used to pay him between ksh300/= - Ksh400/= per day. That he was doing house chores and tend to the cows. That he used to reside within the homestead. That his living quarters was within the same compound. That he used to eat at the house of the deceased. That he had seen the photographs showing the deceased's house. That he had seen one shoe that belonged to the deceased and photographs showing body of deceased. That they used to talk with the deceased. That he felt normal even after Eric Okoth fired him from employment. That he picked up his belongings as soon as he was fired by Erick Okoth. That he travelled to Mombasa on 25/7/2023 as he had planned to travel to Mombasa one month earlier and from 4/1/2023 to 25/7/2023 is a period of some months. That his mother was aware of his travel to Mombasa. That he travelled through Kisumu to see his sister and to pick some fish but he would not call his said sister as a witness. That his friend Washington Ochillo had organized for the job in Mombasa but who is unable to attend court. That he has not gone to Mombasa since his arrest. That



he had left the home of the deceased while she was in good health. That there were times that he did not take meals at the home of the deceased. That he was familiar with the home of the deceased. That he denied fleeing from the house of the deceased after the incident. That he has not approached Simba Coach Buses for a letter to confirm issuance of the bus fare receipt. That he visited the Simba Coach Booking offices on 18/7/2025 for the issuance of a new receipt which confirms that he had travelled to Mombasa on 25/7/2023. That the Bus fare receipt was backdated after Simba Coach confirmed that he had travelled by their bus on 25/7/2023. That he denied ganging up with other persons and killing the deceased. That he has no other evidence showing that he was in Mombasa apart from the bus fare receipt. That he has no evidence backing his alibi defence.

On re-examination he stated inter alia; that it was Erick who fired him from employment and that he did not feel anything about it; that he felt sad on the death of the deceased; that he had good relationship with the deceased; that back dating bus fare receipts implies the checking back of past records; that he has no evidence to prove his innocence.

16. David Ochieng Amingo (DW2) testified inter alia; that he owns a motorcycle registration No. KMFJ 413X make Boxer 150 Black in colour; that on 25/7/2023 he ferried the accused from Kapiyo to Bondo Matatu terminus and that the accused informed him that he had heading to Mombasa to work; that accused paid him Ksh250/=.

On cross examination, he stated inter alia; that he is a Christian and speaks the truth; that he ferried the accused on 25/7/2023; that he has nothing to show that the accused paid him bus fare of Ksh250/=; that he wants the court to believe his evidence and not that of the accused; that he has not been paid money by the accused to testify on his behalf; that he was arrested and charged over a defilement case that was concluded in May 2022 vide reference No. 8 of 2017 and says he was later acquitted on 16/4/2022; that he was convicted for the defilement case and ordered to serve ten years but was acquitted on appeal in April 2022 by Ochieng J, Kisumu High Court.

That marked the close of the defence case.

17. At the close of the defence case, parties were directed to file final submissions. However, it is only the defence counsel who complied.
18. I have given due consideration to the evidence tendered by both prosecution and defence and the submissions filed. I find the issue for determination is whether the prosecution proved its case against the accused herein beyond any reasonable doubt.
19. This being a charge of murder, the burden of proof lay upon the prosecution to discharge and that the standard of proof is one of beyond any reasonable doubt. See *Woolmington Vs Dpp* [1935] AC 462. The offence of murder is provided for under Section 203 of the Penal Code which is to the effect that “any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder.” Hence, in order for the prosecution to secure a conviction for the offence of murder, it must establish certain ingredients inter alia; the death and the cause of that death; that the accused committed the unlawful act which caused the death of the deceased; that the accused had malice aforethought. Throughout the trial, an accused who has denied the charge remains innocent until proved guilty and that he /she is under no obligation to prove his/her innocence.
20. As regards the aspect of the death of the deceased, the pathologist Dr Daniel Wanjovu (PW9) stated that the face was swollen with blood stains. The internal examination revealed hemorrhagic congestion of bilateral lungs. That there was a pelvic organ collapse on the genitalia region. There was also hemorrhagic congestion on the occipital and the skull. He formed the opinion that the cause of death was cardio respiratory failure secondary to asphyxiation and head injury. He produced the autopsy



report dated 1/10/2023 as Exhibit No. 2. As there is no dispute about the death of the deceased, I find that the prosecution proved this ingredient beyond reasonable doubt.

21. As regards the aspect of the unlawfulness of the death, it transpired from the evidence that the deceased was an octogenarian aged 69 years old and in good health at the time of the incident. It also transpired from the evidence that the deceased herein lived alone with the accused herein who was a grandson since all her children are grown up and working elsewhere while her husband used to run a business in Uyugis. It is instructive that all homicides are unlawful unless authorized by law. In the present circumstances, the deceased did not deserve to have her life ended the way it was done since she deserved to live like all other citizens until she naturally expires and that nobody had any right to cut short her life. The circumstances of her death not only shocked her family but the community as well. Hence, I find that her death was unlawful. I find this ingredient was proved by the prosecution beyond any reasonable doubt.
22. As regards the aspect of malice aforethought, Section 206 of the Penal Code provides that the same shall be deemed to have been established by evidence proving any one or more of circumstances inter alia; an intention to cause death or to do grievous harm to any person, whether that person is the person actually killed or not; knowledge that the act or omission causing death will probably cause death or grievous harm to some person, whether that person is the one killed or not, accompanied by indifference whether death or grievous injury occurs or not by a wish that it may not be caused; an intention to commit a felony; an intention by the act or omission to facilitate the flight or escape from lawful custody of any person who has committed or attempted to commit a felony. It is trite law that in offences of murder this ingredient is quite crucial and must be proved by the prosecution beyond any reasonable doubt. In the case of *R Vs Tubere S/o Ochen* [1945] 1 EACA 63 the court held that an inference of malice aforethought can be established by considering the nature of the weapon used, the part of the body targeted, the manner in which the weapon was used and the conduct of the accused during and after the attack. It is noted that the deceased was killed inside her own house and after her death, her body was covered with a blanket and placed on her bed and that the killers managed to get out through a small window after ensuring that all doors were locked from inside and outside. Indeed, the homicide team upon arriving at the scene had to have somebody enter the house from the roof after removing one of the iron sheets and to open the door from the inside. It also transpired that the deceased who had been a treasurer of a welfare group had been robbed of some money in the sum of Ksh170,000/=. The investigating officer and the scenes of crime officer stated that they found several items scattered in the room. It is therefore clear that the circumstances point to a plan by the killers to kill the deceased and rob her of her money. Hence, I find there was malice aforethought. I find this ingredient was proved by the prosecution.
23. As regards the participation of the accused person in the crime, it transpired from the evidence that the accused used to live with the deceased even when he was attending school since one of the deceased's sons was supporting him by paying school fees. The accused in his defence has raised an alibi to the effect that he was not at the scene of crime as by then he was already in Mombasa having travelled there on the 25/7/2023. Further he claimed that he had only lived with the deceased between August 2021 and January 2022 when he went back to join his parents in Nyandusi village. The accused also called a boda boda rider (DW2) who had ferried him from his village in Kapiyo to Bondo Bus stage from where the accused hitched a matatu to Kisumu from where he boarded a bus to Mombasa. The accused in his defence attempted to produce a bus fare receipt dated 25/7/2023 in order to back his alibi but the same was successfully objected to by the prosecution and thus the document was marked for identification. The defence thereafter did not manage to call the management of the bus company to produce the same. The prosecution's witnesses who comprise relatives of the deceased are all agreed that the accused had earlier on been staying with the deceased even when he was attending school



until he left for his home village in Nyandusi but could occasionally visit. The deceased's son (PW1) testified that the deceased had earlier informed him that the accused had been stealing her monies and therefore this forced him to order the accused to go to his home. It is also not in dispute that none of the witnesses saw the accused at the scene of crime but they were all certain that the accused was well known in the area and that the accused having stayed with the deceased knew the entire house and the compound. All the witnesses seem to point a finger at him as the person responsible for the death of the deceased. As none of the witnesses are eye witnesses, the prosecution's case rested entirely on circumstantial evidence. Learned counsel for the defence has submitted that the prosecution's case rests entirely on suspicion and that suspicion alone cannot support a conviction. Counsel relied on the case of *Kanyi vs. Republic* [1991] Eklr where the case held that suspicion alone cannot suffice and is not a substitute for the pre-requisite evidence which must be beyond reasonable doubt. Further, in the case of *Mary Wanjiku Gichira Vs R Criminal Appeal No. 17 of 1998* the Court of Appeal held that suspicion however strong cannot provide a basis for inferring guilt which must be proved by evidence and that before a court of law can convict an accused person of an offence, it ought to be satisfied that the evidence against him is overwhelming and points to his guilt.

24. As noted from the proceedings, the prosecution's case rested squarely on circumstantial evidence. All the witnesses in their testimonies appeared to lay blame upon the accused herein over the death of the octogenarian. They have all given all their misgivings about the genuineness of the accused herein who previously lived with the deceased before he was finally kicked out from the home following several complaints by the deceased over the accused's thieving habits. Further, following the accused's removal from the deceased's home, the children of the deceased cut off any school fee support and that the accused was left to fend for himself at his home in Nyandusi village. In the case of *Sawe vs. Republic* [2003] eKLR the Court of Appeal held as follows:

“In order to justify on circumstantial evidence, the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation upon any other reasonable hypotheses than that of his guilt. Circumstantial evidence can be a basis of a conviction only if there is no other co-existing circumstances weakening the chain of circumstances relied on. The burden of proving facts which justify the drawing of this inference from the facts to the exclusion of any other reasonable hypothesis of innocence is on the prosecution. This burden always remains with the prosecution and never shifts to the accused.”

25. As noted above, the prosecution's case rests entirely on circumstantial evidence while the defence have thrown in an alibi to the effect that the accused was not at the scene of crime since at that time he was miles away in Mombasa having travelled there on 25/7/2023. Further, the accused stated that at that time he was already employed in a Liquor store in Mombasa having been employed on 28/7/2023. It is trite law that in circumstantial evidence, other co-existing circumstances must be considered so as to establish if the same could weaken or destroy the inference of guilt. The prosecution was under a duty to present cumulative facts which should cogently establish the accused's involvement in the crime and hence his guilt. Even though the alibi has been raised rather late in the day, the same seems to have some doubts. For instance, there was evidence by the witnesses that the accused is claimed to have left his village immediately following the death of the deceased. The accused also switched off his mobile phone number and thus his relatives and friends could not reach him even after running to Mombasa. It is instructive that it took about one year before he was smoked out from Mombasa and that all that time, he used to call his relatives back home using different phone numbers. It is also clear that the accused was unhappy after being kicked out of the deceased's home and his fees payment cut off by the deceased's family members. Even though the scene was not dusted and neither were the accused's finger



prints lifted, the foot prints surrounding the incident all point to the accused and no other person as the perpetrator of the crime. He was the only one who used to live with the deceased and who had the motive to eliminate the deceased after stealing her money. He therefore meticulously planned to steal the deceased's money and kill her before disappearing to Mombasa. I am therefore not convinced by the accused's alibi defence as the same has not cast doubt upon the evidence by the prosecution.

Again, the Court of Appeal in the case of Victor Mwendwa Mulinge Vs Republic [2014] eKLR held as follows:

“It is trite law that the burden of proving the falsity, if at all, of an accused's defence of alibi lies on the prosecution; see *Karanja Vs Republic* where this court held that in a proper case, a trial court may, in testing a defence of alibi and in weighing it with all the other evidence to see if the accused's guilt is established beyond all reasonable doubt, take into account the fact that he had not put forward his defence of alibi at an early stage in the case so that it can be tested by those responsible for investigating and thereby prevent any suggestion that the defence was an afterthought.”

I am therefore satisfied by the evidence presented by the prosecution that the accused was squarely placed at the scene of crime and was the perpetrator of the crime. I find the accused's defence evidence and alibi has not shaken the prosecution's evidence which is quite overwhelming against him beyond any reasonable doubt.

24. . In view of the foregoing observations, it is my finding that the prosecution has proved the charge of murder against the accused herein beyond any reasonable doubt. I find the accused herein Wilson Aduor Ooro guilty of the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code and is convicted accordingly.

DATED AND DELIVERED AT SIAYA THIS 19TH DAY JANUARY 2026.

D.KEMEI

JUDGE

In the presence of:

Wilson Aduor Ooro..... Accused

Odhiambo.....for Accused

Soita.....for Prosecution

Maureen/Kimaiyo.....Court Assistant

