



**Republic v Chege (Criminal Case E003 of 2020)
[2026] KEHC 901 (KLR) (4 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 901 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
CRIMINAL CASE E003 OF 2020
GL NZIOKA, J
FEBRUARY 4, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

JAMLICK MWANGI CHEGE ACCUSED

JUDGMENT

1. The accused was arraigned before the court 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 the charge are that on 8th November 2020 at Maai Mahiu in Naivasha Sub-County within Nakuru County, he murdered Loise Wanjiru Njuguna.
3. He pleaded not guilty to the charge and the case proceeded to full hearing. The prosecution case is that on 7th November 2020, the deceased left home at about 6pm after receiving a call. Her mother (PW1) Josephine Gathoni Koya testified that, she tried to reach her thereafter in vain and the family retired to bed
4. However, at 2am she received a call from her brother (PW4) John Kimotho who informed her that the deceased had been stabbed and was bleeding profusely. She went to the scene and was assisted to take the deceased to Naivasha Sub-County Hospital but she passed on shortly thereafter and the family was advised to report the matter to the police station. Upon receipt of the report, the police officers took the body to the mortuary.
5. In the meantime, the accused who was the deceased's boyfriend and who had apparently called her from home and in whose house the deceased was stabbed was held as a prime suspect and arrested.



6. As part of investigation, a post mortem was conducted on the deceased's body by (PW9) Dr Ngulungu who established that the deceased had been stabbed twice on the right chest and the cause of her death was myocardial injury due to sharp force trauma to the chest in keeping with homicide.
7. Further investigation of the items taken to the government analyst revealed that, the DNA profile generated from the blood stains on the bedcover which was recovered from the accused's house had a mixed DNA profile of the accused and the deceased.
8. In addition, the scene was visited and processed by the scene visiting officer Corporal Tembes (PW7) who produced the photographs thereof.
9. After the investigation, the accused was charged accordingly.
10. Upon evaluating the evidence adduced by the prosecution the court ruled that the accused had a case to answer. In a sworn statement he acknowledged that, the deceased was his girlfriend. He further testified that on 8th November 2020, he was with the deceased at 5pm and then she went back home to attend to an emergency as he remained with friends in a club watching a movie until 9.00pm.
11. That at midnight, the deceased called him and informed him that she was going to his house but he invited her to join him and his friends at the club but she declined and so they boarded a motor bike and went home. That, thereafter a friend called him to drop him home. He states that he took a motor bike and went and picked up the friend and at midnight the deceased called him and told him; "take care of the place you are at your own pace."
12. That when he returned home he found the gate to the plot open and lights off and then saw someone escaping from his house and when he entered the house, he found the deceased lying on the bed and bleeding. That he sought for help and took her to the hospital where she was pronounced dead and thereafter he was arrested and charged accordingly.
13. At the conclusion of the case, each party tendered their respective submissions. In submissions dated 10th July 2025, the prosecution submitted that the accused's defence is a mere denial and not plausible, in that there is overwhelming circumstantial evidence from the DNA analysis report linking him to the murder of the deceased.
14. That, the ingredients of the offence of murder were established in the case of; Antony Ndegwa Ngari versus Republic (2014) eKLR. That, as regard the first ingredient requiring the prosecution to prove occurrence of death and the cause thereof, the evidence of PW1, PW2, PW3, PW4 reveal that they took the deceased to hospital and she died in their presence.
15. The prosecution further submitted that, the evidence of these witnesses is corroborated by the evidence of (PW9) Dr. Ngulungu who performed a post mortem on the deceased's body.
16. As to what caused her death, the prosecution submitted that the stab wounds on the deceased's chest caused her death and referred the court to the post mortem report produced by the doctor as P. Exhibit (1), wherein the cause of death is well stated as myocardial injury due to sharp force trauma to the chest in keeping with homicide
17. The prosecution argues that, pursuant to the provisions of Article 26 of *the Constitution* of Kenya, 2010, the deceased's death was unlawful.
18. The prosecution further submitted that, although there is no direct evidence as to how the offence was committed, there is circumstantial evidence to prove the charge. The court was referred to the cases of; Ahmed Aboltathi Mohammed and Another –vs- Republic (2018) KLR and Abanga Alias



Onyango –vs- Republic Criminal Appeal No. 32 of 1990 (UR) where the circumstances under which circumstantial evidence may be relied on by the court to prove accused’s guilty were discussed.

19. The prosecution further argued that, the accused has admitted that the deceased was his girlfriend and were together on the material date before the incident.
20. That based on the afore said evidence, the prosecution has proved that, the accused is guilty as charged as the facts herein are incompatible with his innocence.
21. Finally, the prosecution submitted that, malice aforethought has been proved by the fact that, the accused stabbed the deceased on the chest and knew the stabbing would cause her death or grievous harm. Further the part of the body targeted, the weapon used and the extent of the injuries sustained prove malice aforethought as provided for under section 206 of the Penal Code.
22. However, in response submissions, the defence vide submissions dated 10th July 2025, argued that, there is no direct evidence as linking the accused to the offence as none of the prosecution witnesses witnessed the occurrence of the death, therefore the case rests solely on circumstantial evidence.
23. Further, although the prosecution relies on the DNA results that allegedly implicates the accused, the prosecution has mischaracterized the facts and evidence. That, it is clear from the record and unchallenged that, the deceased and accused were in a love relationship and the duvet from which DNA profile was generated belonged to the accused, therefore it is entirely foreseeable that his DNA would be present on his own beddings. As such the presence of DNA is not inherently incriminating and does not without more, connect the accused to the death of his girlfriend.
24. The accused relied on the case of; Republic versus Mwago (2025) KEHC on the admissibility of circumstantial evidence and submitted that in this case, the nature of the DNA evidence is entirely consistent with day to day interaction rather than murder and breaks the alleged evidentiary chain.
25. Further, the prosecution has failed to explain why the knife alleged to be the murder weapon and stained with blood did not have the accused’s DNA. That the burden of proof lies on the prosecution and mere suspicion is not enough for a conviction.
26. Finally, the defence submitted that, the prosecution has failed to establish clear motive of the murder especially when the only evidence relied on is DNA profile. In conclusion the defence submitted that, the prosecution has not provided sufficient evidence to support a conviction and therefore the accused should be acquitted.
27. At the conclusion of the case, and in considering the evidence in total, the court notes that, the offence with which the accused is charged with is provided for under section 203 of the Penal Code which states as follows:

“ Any person who of malice aforethought causes death of another person by an unlawful act or omission is guilty of murder”
28. Pursuant thereto, the ingredients of the offence are settled by various court’s decision as follows; a) proof of the death of the deceased, b) that the death was caused by an unlawful act or omission of the accused, and c) that the act was committed with intent to kill or cause grievous harm, basically malice aforethought.
29. The court of appeal decision in the case of; Roba Galma Wario v Republic (2015) eKLR reiterate these elements, emphasizing that proving these ingredients beyond reasonable doubt is crucial for conviction, with malice aforethought distinguishing murder from manslaughter.



30. The question is whether the prosecution has proved all the afore elements. As regards the first element of occurrence of death and the cause thereof. It is evident from the testimony of the deceased's mother (PW1) Josephine Gathoni Koya that, she was with the deceased at the hospital when she passed on. Further (PW4) John Kimonda Koiya identified the body for post mortem, while (PW9) Dr. Ngulungu performed the post mortem on deceased's body. Therefore, the occurrence of death is well established and neither does the accused dispute it.
31. As regards the cause of death, the evidence of (PW9) Dr. Titus Ngulungu is conclusive that upon examination of the deceased he noted two (2) stab wounds on the right chest measuring 21x10mm and 10mm from midlines and 30mm below right nipple. That, they communicated with chest cavity. Further the lungs had collapsed. The doctor concluded that, the cause of death was myocardial injury due to sharp force trauma to the chest in keeping with homicide. This finding is not disputed by the defence.
32. The key issue is who caused the death of the deceased. Both parties are in agreement that, there is no direct evidence by any of the prosecution witnesses that they witnessed the murder. Both parties submit that, the case is based purely on circumstantial evidence.
33. The law on circumstantial evidence is settled vide various cases and in the case of, *Kirimi v Republic* (Criminal Appeal 105 of 2016) [2025] KECA 410 (KLR) (21 February 2025) (Judgment) the court of Appeal summed the law at paragraph 17 thereof as follows:

“In the case of *Sylvester Mwacharo Mwakeduo & another v Republic* [2019] eKLR this Court observed:

“Over the years, courts have set the threshold which has to be met if circumstantial evidence is to be relied on to prove a case to the required standard of beyond reasonable doubt. For circumstantial evidence to form the basis of a conviction several conditions must be satisfied to ensure that it points only to the guilt of the accused to the exclusion of others. This test has previously been applied by this Court in a myriad of cases for instance in the case of *Judith Achieng' Ochieng' v Republic*, Criminal Appeal 128 of 2006, this Court stated the law as follows: -

It is settled law that when a case rests entirely on circumstantial evidence, such evidence must satisfy four tests: -

- i. The circumstances from which the inference of guilt is sought to be drawn must be cogently and firmly established;
- ii. Those circumstances should be of a definite tendency unerringly pointing towards the guilt of the accused;
- iii. The circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else;
- iv. In other words, in order to justify a finding of guilt, the circumstantial evidence, in its totality, ought to be such that the incriminating facts lead to the unimpeded conclusion of guilt and that there are no co-existent facts that are capable of explanation upon any reasonable hypothesis other than that of the accused's guilt.”



34. In this particular case, the undisputed facts are that the accused and deceased had a love affair and that the deceased was at the accused's house when she was fatally injured. From the evidence adduced the deceased left home just before 6pm. According to the accused, they met at 5pm. Notably the accused states that, the deceased left him to go and attend to an emergency at home, but the evidence of the deceased's mother (PW1) Josephine Gathoni is that the deceased did not go back home after she left at about 6pm.
35. Be that as it may, the accused does not state at what time the deceased left him and/or what the emergency was. Being the deceased boyfriend, it is only normal and expected that he would inquire as what the emergency was. He doesn't seem to have done so. Even then, the accused states that after they parted, they continued communicating until the deceased called him at midnight, then he picked her from a petrol station and they eventually ended up at his house. It is therefore proper to presume that the deceased was in good health as at midnight when she met the accused.
36. Furthermore, evidence reveals that the call informing the deceased's mother of her stabbing and bleeding was at 2am and so the fatal injury can only have been inflicted upon the deceased between midnight and 2am.
37. The question is; who was with the deceased during that time. The evidence indicate that she was with the accused, therefore the accused is the only one who can explain what happened to her.
38. In answer as to what happened to the deceased, the accused states that he left her home to go and drop a friend home. At this point several questions arise; who is this friend? what is his name? Does he exist? Taking into account that under the law, he who alleges proves, the question remains; has the accused proved he ever left the house and/or was with a friend? why didn't he avail this friend to support his evidence that he indeed left the house?
39. The accused further states when he returned home, he saw someone escape from his house. However, it is worth noting that, at no time did the accused tell any of the people who assisted to take the deceased to hospital or deceased's mother and anyone else that he left the deceased at home and when he returned he saw someone leave his house. It does appear that, the issue of a third party leaving the house has arisen for the first time in this proceeding. So the question is; is it an afterthought?
40. It is also in the evidence of (PW2) Samuel Karonji Kimani that when they went to the accused's house, they found the deceased lying outside the door. That the head was at the door and the rest of the body was outside the door with blood flowing from the chest and the accused beside her. Furthermore, the door to the house was open and security lights on. However, it suffices to note that the accused testified that he found the deceased in bed and bleeding. The question is; how did she reach the door?
41. The witness further stated that, he asked the accused what happened to the deceased and he said he had left her in the house and when he returned home he found deceased outside. Again that contradicts accused's evidence that he found the deceased's in bed bleeding.
42. (PW2) Kimani further testified that he asked the accused where the blood from his leg came from but the accused did not respond to that question. Furthermore (PW2) Kimani asked the accused in what state the deceased was when he arrived back home but he did not respond. The accused did not rebut this evidence in his defence or submissions.
43. The witness (PW2) Kimani said that he heard from the other neighbours (though uncorroborated) that the accused and deceased had some quarrels and disturbances before the incident.
44. In that regard, although none of the neighbours testified to that alleged quarrel but (PW3) Eliud Mbugua Gichohi testified that as they were waiting for the deceased to be treated he asked the accused



what caused a quarrel between him and the deceased as the neighbours were saying they quarrelled and the accused told him he went back home and found a stain on the sheet and that is when the quarrel started. However, the accused did not explain the nature of the stain. Notably, the accused did not rebut this evidence during cross examination of the witness. If indeed there was a quarrel between the deceased and accused as alleged, then that explains why the deceased was killed.

45. Be that, as it were, the evidence of (PW6) Polycarp Lutta Kweyu is that he received several items in this case at the Government analyst. That among those items was a green bedcover marked "C" and blood sample of both the accused and the deceased. That he carried out DNA analysis and found that the bedcover was stained with blood of a human being of mixed DNA profile of the accused and deceased.
46. The defence has argued strongly against the afore DNA profile results as being evidence linking the accused to the offence. It is submitted that, the bedcover belonged to the accused and that is why his DNA profile was found thereto. However, what eludes the defence is that, it is the blood stains on the bedcover that revealed the presence of the accused DNA, not just the bedcover per se.
47. The question is; is it normal to have blood stains on a bedcover simply by sleeping on it? That is not so. So where did the accused's blood on the bedcover come from?
48. The Government analyst report also indicate that the blue jeans, the two pair of shoes, worn by the deceased and the accused and the knife recovered were stained with blood of human origin and matched the DNA profile of the deceased. From this finding, the question is; how did the deceased blood find itself on the accused's shoes and jeans? Secondly, assuming that third party committed the offence, did he come with the knife, the weapon of murder and after committing the offence left it behind?
49. In the considered opinion of this court, the fatal stab on the deceased took place in the bedroom and that is why there was blood on the bedcover and that she was carried or dragged to the main door, most likely by the accused and that is how the deceased blood was found on the accused's blue jeans and shoes. This also corroborates the evidence of (PW2) Samuel Karonji Kimani that he noticed blood on the accused's leg.
50. The afore evidence rules out the presence of an alleged third party. It therefore follows that the last person seen with the deceased is the accused.
51. The doctrine of lastly seen person creates a rebuttable presumption that the person last seen with the deceased individual is responsible for their death.
52. Thus once the prosecution establishes that the accused and the victim were together shortly before the victim was found dead, the burden of proof shifts to the accused.
53. However, several conditions must be met before the doctrine applies, firstly, proximity of time. That the time gap between when the accused was with the deceased and when the body was found is extremely small thus making it impossible for someone else to have committed the offence.
54. In this case, the accused states that he left after midnight, he does not state at what time he returned home but PW2 and PW4 both testified they received a call to go and assist take the deceased to hospital at 2am. If the accused went home with deceased to his house after midnight and most likely reached and left again and as he was gone the deceased called him and they talked as alleged, then the murder took place between 1am and 2am. That is definitely a short period.
55. Secondly under the doctrine, the accused is expected to offer a credible explanation as to what happened when they were last together. The defence offered does not hold water as already stated herein.



56. In addition, although the accused allege that he found the gate open, neighbours said that the gate to the plot was locked and only one person kept the keys. This evidence was not rebutted in cross examination.
57. Finally, the doctrine is rarely relied on in isolation and must be supported by other circumstantial facts that lead to no other than the conclusion that the accused is guilty.
58. In the instant matter, the evidence reveals the deceased was called from their home by the accused, she responded and went to meet the accused. According to the accused they parted for a while but continued communicating throughout on phone until they met again at midnight and thereafter she was stabbed in his house to death.
59. The accused's defence is not substantiated in that although he alleges he was with friends between 6pm to midnight and thereafter before returning home to find the deceased fatally injured, none has confirmed that fact, leading to doubt as to whether these friends exist and/or the defence is truthful.
60. Further, there is evidence that the neighbours were murmuring at the scene that the deceased and accused had quarrelled and/or disagreed. And although none of them testified, (PW3) John Kimonda Muhia testified that when he asked the accused what they were quarrelling over, the accused said that he found stains on the bedsheets and that is why they quarrelled. This clearly explains the reason or motive of the murder and therefore the defence argument that motive has not been established is not tenable. In any case, in the context of a murder trial, motive is considered a relevant fact, but it is not a "material fact" or an essential element that the prosecution must prove to secure a conviction. Therefore its absence is not fatal to the prosecution case.
61. Based on the afore evidence, it is clear that all the circumstantial evidence leads to only one conclusion that the accused fatally stabbed the deceased.
62. The final question is whether he had malice aforethought. The provisions of section 206 of the Penal Code states the circumstances under which malice aforethought is established and according to this section, malice aforethought is established if any of the following circumstances are proven:
- a. Intent to kill or harm: an intention to cause the death of, or to do grievous harm to, any person.
 - b. Knowledge of probable death: knowledge that the act or omission causing death will probably cause death or grievous harm, even if the person is indifferent to the outcome.
 - c. Intent to commit a felony: an intent to commit a felony.
63. Based on the aforesaid, when a person takes a sharp weapon as a knife which he has full knowledge is a lethal weapon and stabs another not once but twice on the chest and nowhere else, what does the assailant intent to do other than cause death or grievous harm?
64. In the given circumstances I find that malice aforethought is established and consequently find the accused guilty as charged and accordingly convict him of the offence of murder under section 203 as read with section 204 of the Penal code.

DATED, DELIVERED AND SIGNED ON THIS 4TH DAY OF FEBRUARY, 2026

GRACE L NZIOKA

JUDGE

In the presence of:

Ms Chepkonga for the State



Mr Karanja for the Accused

Accused present virtually

Hannah: Court Assistant

