



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Karisa alias Rama (Criminal Case 27 of 2018)  
[2026] KEHC 1517 (KLR) (12 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 1517 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MOMBASA  
CRIMINAL CASE 27 OF 2018  
WM KAGENDO., J  
FEBRUARY 12, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**RANDU KATANA KARISA ALIAS RAMA ..... ACCUSED**

**JUDGMENT**

**Introduction**

1. It has been wryly observed that the three leading causes of murder in the Coast Region are the three “Ws”: witchcraft, wine, and women. This case tragically exemplifies the third “W” - women or, in this instance, a wife. The deceased was both an uncle and a neighbor to the accused, and the dispute arose over the accused’s family.
2. Evidence shows that the accused, a resident of Dargube, had moved to Kasemeni in Lungalunga to eke out a living, leaving behind his wife (PW 2), ten children (including PW 1), and his mother-in-law. This occurred around February 2018. The family, left to fend for themselves, were invited to live with the deceased, and they moved to his household, including the accused’s mother- in-law.
3. The accused did not completely abandon his family. PW 1, the accused’s 16- year-old son, testified that the accused visited them about five times. The accused also admitted sending money and visiting them. It was during one such visit that the tragic events occurred.
4. The Charge<sup>4</sup>. The accused was charged with murder, specifically that on 19/05/2018 at Dargube Village, Ramisi Location, Msambweni Sub-County, Kwale County, he murdered Mbache Mwadzombe. The accused denied the charge.
5. The Prosecution Case<sup>5</sup>. The State called eight witnesses:i. PW 1 – Ibrahim Randu (son)ii. PW 2 – Mesaidi Ibrahim (wife; evidence disallowed)iii. PW 3 – No. 111178 PC Joshua Olekete Jakaint



- (received first report)iv. PW 4 – Dr. Rahma (postmortem report)v. PW 5 – No. 60026 Cpl. Emmanuel Kondo (CSI; stood down)vi. PW 6 – No. 92074 Cpl. Dickson Kiron (first respondent)vii. PW 7 – No. 63264 PC Martin Langat (investigating officer)viii. PW 8 – No. 233503 IP Hamisi Keya Salala (took charge and recorded statement)
6. The Ruling on Prima Facie Case6. After considering the evidence, the court was satisfied that the State had established a prima facie case against the accused, who was then called upon to enter his defence.
  7. The Defence7. The accused elected not to give any evidence.
  8. The Law8. Article 26 of *the Constitution* of Kenya guarantees the right to life: “No person shall be deprived of life intentionally except as authorized by law.”
  9. The ingredients of murder were articulated in Republic v Andrew Omwenga [2009] eKLR:i. Proof of the fact and cause of death;ii. That the accused’s act or omission caused the death (actus reus);iii. That the act was accompanied by malice aforethought (mens rea).
  10. Analysis of Evidence10. The death of the deceased is undisputed. The accused made the initial report to Lungalunga Police Station. PW 3, PC Joshua Olekete, produced the OB extract (OB No. 6 of 20/5/2018, 07:08 hrs), which reads:
 

“The accused had gone to Kasemeni to burn charcoal and, on returning, was told Mbache Mwadzombo had taken his wife. He proceeded to the deceased’s house, arrived at 7:40 pm, found the deceased and his wife there, became angry, and cut the deceased on the head, resulting in his death. The incident was reported by Randu Katana.”
  11. PW 6, Cpl. Dickson Kiron, visited the scene and called DCI officers to document it. Photographs were taken, but PW 5, the Scenes of Crime Officer, was stood down and not recalled, so they were not produced.
  12. The body was taken to Kilifi Hospital Mortuary, where Dr. Chesine conducted a postmortem on 28/5/2018. PW 4, Dr. Rahma, produced PEX.3, showing identification by Hamadi Halifan, Hassan, and Mesaidi Suleiman Mwalifani.
  13. The postmortem revealed rigor mortis and algor mortis. Externally, the deceased sustained deep cuts to the occipital region (with avulsion of the brain), left shoulder, and lower back. The cause of death was severe head injury with excessive hemorrhage, confirming the fatality.
  14. PW 1, the accused’s son, witnessed the attack and testified that the injuries were inflicted with a panga. The accused’s confession, recorded by PW 8, corroborates this account.
  15. At this point, I must pause and appreciate Mr. Kinyua Muthuri, the advocate for the accused person, who despite appearing on a pro-bono basis, put up an extremely gallant fight on behalf of his client. He definitely gave Mr. Muthomi, for the State, a good run for his legal study fees.
  16. The first major objection was to the testimony of PW 2 (Musaidi Suleiman Mwalifani, the accused’s spouse) under Section 127(3) of the *Evidence Act*; the objection was upheld in the ruling dated 28/2/2019, as a wife is not a competent or compellable witness.
  17. The second objection concerned the production of photographs; the accused argued he had not been served with the certificate and exhibit memo. The court did not disallow the evidence but adjourned the matter for proper service; PW 5 (Cpl. Emmanuel Kondo) was not recalled.



18. The third objection challenged the admissibility of the out-of-court confession under Section 25(A) of the *Evidence Act*, arguing that PW 8 was not a competent officer. This objection was initially upheld in the ruling dated 30/10/2020.
19. The State successfully sought a review, arguing that Section 25 had been amended, allowing a police inspector to record a charge and cautionary statement. The confession was admitted in the ruling dated 23/9/2021.
20. Finally, the defence objected to the production of the charge and cautionary statement, alleging procedural irregularities. After a trial-within-a-trial, the objection was dismissed in the ruling dated 31/07/2024, finding that the statement was given freely, without coercion, intimidation, misrepresentation, or inducement.
21. The accused's statement narrates how he left his home in February 2018, sent money to his family, and visited them in April 2018. After continued accusations by his wife, allegedly sourced from the deceased, he returned home on 14/5/2018 to find the household empty, confirmed their presence at the deceased's home on 15/5/2018 and 18/5/2018, sharpened a panga, and attacked on 19/5/2018, surrendering to police on 20/5/2018.
22. The court notes that, while caution is required when relying on confessions (*Tuwama v Uganda* [1967] EA 87), in this case, the confession was corroborated by multiple witnesses, including an eyewitness, PW 1, who saw his father commit the act.
23. Malice Aforethought<sup>23</sup>. Under Section 206, malice can be express, implied, or constructive. Case law (*Bonaya Tutu Ipu & Another v Republic* [2015] KECA 335; *Chesakit v Uganda* CR. APP. No. 95 of 2004; *Isaack Kimanthi Kanuachobi v Republic* [2013] KECA 392) establishes that malice may be inferred from: Part of the body injured; Weapon used; Nature of injuries; Accused's subsequent conduct.
24. In this case, the accused planned and executed the attack with a panga, evidencing deliberation and intent to kill.
25. Provocation Consideration<sup>25</sup>. Although provocation may reduce murder to manslaughter (*Joannes Otieno v Republic*; Section 207 Penal Code), it must satisfy both subjective and objective tests (*Republic v Duffy* [1949]).
26. Here, the accused had knowledge of his family's presence at the deceased's home days in advance, yet waited, sharpened a panga, and attacked. This demonstrates calculated retaliation, not heat-of-the-moment provocation.

## Conclusion

27. All three elements of murder – death, causation, and malice aforethought – are established beyond reasonable doubt. The accused is therefore convicted under Section 322(2) read with Sections 203 and 204 of the Penal Code.
28. The conduct of this case, despite its protracted timeline, provides a valuable academic record. The Deputy Registrar is directed to ensure all proceedings, rulings, and judgments, including all five rulings (28/2/2019; 30/10/2020; 23/9/2021; 31/07/2024), are properly typed, preserved, and disseminated for academic purposes.

**DATED, SIGNED, AND DELIVERED IN OPEN COURT/ONLINE VIA MS TEAMS 12TH FEBRUARY 2026**



**HON. LADY JUSTICE W. K. MICHENI JUDGE**

In the presence of:

Ms. Bebora – Court Assistant

The State Counsel – Mr. Sirima

Mr. Muthuri – Advocate for the Accused Person

Signed By/for:

**HON. LADY JUSTICE WENDY MICHENI**

**THE JUDICIARY OF KENYA.**

