



**Republic v Chege (Criminal Case E010 of 2024)  
[2026] KEHC 2182 (KLR) (Crim) (26 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 2182 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
CRIMINAL  
CRIMINAL CASE E010 OF 2024  
KW KIARIE, J  
FEBRUARY 26, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**SIMON MUHINDI CHEGE ..... ACCUSED**

**JUDGMENT**

1. Simon Muhindi Chege is charged with an offence of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars of the offence are that on the 26<sup>th</sup> day of April 2023, at Kwa Lee, Gathara sub-location, in North Kinangop Sub-County of Nyandarua County, he killed John Gachuiru Karanja.
3. The incident leading to the death of the deceased herein was in a pub. The prosecution claimed that the accused punched the deceased, causing his death.
4. In his defence, the accused argued that he went home after drinking heavily. He denied any involvement in the assault on the deceased.
5. The issues to be determined are:
  - a) Whether the accused assaulted the deceased, leading to his death; and
  - c) Whether the offence of murder was established against the accused.
6. Francis Mwangi Munoru (PW1) testified that he went to Lee Pub at 4 p.m. and started partaking of alcohol. At about midnight, he became overwhelmed and fell asleep. He was aroused from sleep by a commotion. People left the pub. The accused told them to go back because there was a person who was badly injured. He later changed and alleged that the accused stated that he had badly injured a



person. During cross-examination, he again changed and said that the accused said, “they injured John badly.” The Court of Appeal in the case of *Ndungu Kimanyi vs Republic* [1979] KLR 283(Madan, Miller and Potter JJA) held:

The witness in a criminal case upon whose evidence it is proposed to rely should not create an impression in the mind of the court that he is not a straightforward person, or raise a suspicion about his trustworthiness, or do (or say) something which indicates that he is a person of doubtful integrity, and therefore an unreliable witness which makes it unsafe to accept his evidence.

7. This is a witness who cannot be relied upon to tell the truth.
8. Onesimus Waithumbi (PW3), who was also at Lee Pub, stated the incident happened around 4 a.m. He claimed he did not see the event but heard others say the accused punched the deceased. This constitutes inadmissible hearsay.
9. The credibility of Daniel Kamau Nyambura's (PW4) evidence is questionable. He stated that the accused admitted to hitting the deceased severely, but he did not explain what led the accused to confess. The witness was drinking alcohol from 8 p.m., while the incident took place around 4 a.m. It is doubtful whether he was in a condition to accurately recall events. My concerns are further supported by inconsistencies between his testimony and that of PW1. PW4 claimed the accused confessed while they were outside, but PW1 stated they were asked by the accused to return to the pub because someone was badly injured, which contradicts PW4's account. This was before PW1 introduced contradictions in his own evidence.
10. Even if we assume no contradictions, which in fact existed, the prosecution still attempted to introduce a confession indirectly. Section 25A of the *Evidence Act* clearly outlines the proper procedures for making a confession. It states:
  - (1) A confession or any admission of a fact tending to the proof of guilt made by an accused person is not admissible and shall not be proved as against such person unless it is made in court before a judge, a magistrate or before a police officer (other than the investigating officer), being an officer not below the rank of Inspector of Police, and a third party of the person's choice.
11. This was inadmissible evidence.
12. The accused had no duty to prove his innocence.
13. Having considered the evidence on record, I conclude that the prosecution has failed to prove the offence of murder against the accused. The prosecution relied on witnesses who were very drunk at the time of the incident. The accused is therefore acquitted of the offence of murder.

**DELIVERED AND SIGNED AT NYANDARUA, THIS 26<sup>TH</sup> DAY OF FEBRUARY 2026**

**KIARIE WAWERU KIARIE**

**JUDGE**

