



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYANDARUA**

**CRIMINAL CASE NO. 37 OF 2023**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**PETER KANINI WANGUI.....1<sup>ST</sup> ACCUSED**

**SIMON MURAGE MWANGI ..... 2<sup>ND</sup> ACCUSED**

**JUDGMENT**

1. Peter Kanini Wangui and Simon Murage Mwangi are 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 27<sup>th</sup> day of August 2021, at Kagema village, Ngano location, in Nyandarua West Sub-County of Nyandarua County, they murdered Achibon Kariuki Kangatu.
3. It was reported that the deceased had attacked and injured Simon Ndirangu. Several others were also attacked. When an alarm was raised, a mob, including the two accused, responded. They went to the deceased's home, took him away, and he was later found dead.
4. Peter Kanini Wangui stated that after hearing the alarm, he went to Simon Ndirangu's home. There, he found several people who confirmed that Simon Ndirangu had been cut. However, he did not see the deceased that day.
5. The second accused stated that on the material day, around 7:30 p.m., he was walking home when he was attacked and lost consciousness. He was then taken to the hospital, where he stayed for three days. He later found out that members of the public had attacked the deceased after the incident involving Simon Ndirangu.
6. The issues to be determined are:

- a) Whether either or both accused were involved in the killing of the deceased herein;  
and
  - b) Whether the offence of murder was proven against the accused.
7. The two accused were linked to the crime through the testimony of Mary Wanjiru Kariuki (PW1), the deceased's widow. She stated that on 27 August 2021, around 9 p.m., while in her kitchen with the deceased, she heard their fence being knocked down. The kitchen door was open, and the second accused entered. He was with the first accused and Amos Ndungu. The second accused held the deceased by the chest, and the trio pulled him out. She said a solar lamp was on. That was the last time she saw him alive.
  8. A conviction can be secured on the evidence of a single witness. This was stated by the Court of Appeal for Eastern Africa in **Roria v Republic [1967] EA 582**. The Court held:  
*...it is legally possible to convict on the uncorroborated evidence of a single witness identifying an accused and connecting him with the offence, ...*
  9. In this case, I will try to determine whether, given the circumstances of the incident, it was possible to recognize without error.
  10. It should be noted that the mob's entry into the deceased's home was aggressive. PW1 stated that the first sound she heard was the destruction of their fence, followed by the two accused and Amos Ndungu entering the kitchen, where she was with the deceased. During cross-examination, she said the room was small. The prosecutor did not elicit the approximate size of the room for the court to assess whether, in the circumstances, she could have identified anyone.
  11. The second accused, in his defence, contended that he was not at the scene of the incident. The Court of Appeal in the case of Kiarie vs Republic [1984] KLR, held:  
*An alibi raises a specific defence, and an accused person who puts forward an alibi as an answer to a charge does not, in law, thereby assume any burden of proving that answer, and it is sufficient if an alibi introduces into the mind of a court a doubt that is not unreasonable.*
  12. The accused, David Wanyiri (DW3), called DW4 as a witness. He testified that while returning home with Zachary Mwangi (DW4), they found him (the second accused) unconscious on the road and took him to the hospital. This was DW4's testimony.
  13. The evidence by the prosecution did not displace the alibi defence by the second accused. This takes us back to the issue of the first accused's recognition, who said that though he responded to the alarm, he never participated in beating the deceased.

14. Without additional evidence supporting PW1's claim, it would be unreliable to convict the first accused solely based on her uncorroborated testimony.
15. After reviewing the evidence, I find that the prosecution has not proved the murder charge against either accused. Both are acquitted of murder and should be released unless detained by other legal reasons.

**Delivered and signed at Nyandarua, this 25<sup>th</sup> day of February 2026**

**KIARIE WAWERU KIARIE  
JUDGE**