



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYANDARUA
CRIMINAL CASE NO. 48 OF 2023

REPUBLIC.....PROSECUTOR

VERSUS

JEFF OGITARE MECHEO alias KEVIN OMBURA NYANGOYA ACCUSED

JUDGMENT

1. Jeff Ogitare Mecheo, alias Kevin Ombura Nyangoya, is charged with murder contrary to section 203, as read with section 204 of the Penal Code.
2. The particulars of the offence are that on the night of the 2nd day of January 2021, at Kihara sub-location, Shamata location, Aberdare Sub-County within Nyandarua County, jointly with others not before the court, they murdered John Harrison Njoroge Katto. These were Kevin and Michael Waruhiu.
3. When his adult children were unable to get him on the phone, one of his sons, in the company of Michael Waruhiu, went and broke into the house, which was locked from the outside and found his lifeless body in the house. Some items were missing from the house.
4. The accused, Jeff Ogitare, was connected to the crime through M-Pesa statements from the deceased's phone. It was also claimed that he used his brother, Kevin Ombura Nyangoya, 's identity card.
5. The accused introduced himself as Jeff Ogitare Mecheo Nyangoe. He denied any involvement in the offence and also claimed to have no knowledge of the deceased.
6. The issues to be determined are:
 - a) What is the identity of the accused?
 - b) Whether either of the accused was employed by the deceased or not;
 - c) Whether the accused was linked to the murder of the deceased; and

c) Whether the offence of murder was proved against him.

7. CPL. Jackson Mbithi (PW7) testified that during the arrest in Ndaragua, the accused identified himself as Jeff Ogitare. There was no attempt by the prosecution to prove whether this was his true identity. The only evidence that PW7 adduced was that the accused's brother confirmed that his name was Jeff Ogitare. The prosecution, therefore, did not adduce any other evidence to contradict the identity the accused gave.
8. The claim that the accused was a former employee of the deceased was not proven. No witness was called to support this. Beatrice Wamuyu (PW5), a neighbour of the deceased, testified that on January 2, 2021, the deceased did not have a worker and had gone to her house to buy kales. She emphasised that the deceased would usually send his workers. In her testimony, she did not identify the accused as a former worker of the deceased. She said she had been his milk customer since 2018.
9. The prosecution failed to call Michael Waruhiu a grandson and an employee of the deceased, who could have shed light on the identity of Kevin, who was alleged to have been employed by the deceased.
10. I conclude that the prosecution did not demonstrate that the accused was ever an employee of the deceased.
11. The investigations in this case were conducted superficially. The prosecution did not call Michael Waruhiu or Kevin Ombura Nyangoya as witnesses, despite the M-Pesa statement showing money transferred to Nyangoya's account. Their testimony was crucial in determining who used the deceased's account and for understanding the motives involved. Michael Waruhiu had important evidence about his grandfather, but unfortunately, he was kept away from the court. The Court of Appeal in the case of **Bukenya vs Uganda [1972] EA 549** (Lutta Ag. Vice President) held:

The prosecution must make available all witnesses necessary to establish the truth, even if their evidence may be inconsistent.

Where the evidence called is barely adequate, the Court may infer that the evidence of uncalled witnesses would have tended to be adverse to the prosecution.
12. This was a significant oversight, particularly since it has not been proven that the accused ever identified himself as Kevin Ombura Nyangoya.

13. During cross-examination, CPL. Jackson Mbithi (PW7) explained that the deceased was killed in a family land dispute. He should have investigated Michael Waruhiu, who, according to Beatrice Wamuyu (PW5), was trying to get some money she owed the deceased. She owed the deceased Kshs 1200 for milk supplied to her but had not paid. When Michael Waruhiu asked for the money on January 7, 2021, he claimed the deceased had gone on a journey. This raises the question of whether Michael Waruhiu knew how the deceased died. A proper investigation might have revealed who was responsible for the killing.
14. After reviewing all the evidence, I conclude that the prosecution has not proven the case of murder against the accused. Consequently, he is acquitted of murder and should be released unless there are other lawful reasons for detention.

Delivered and signed at Nyandarua, this 22nd day of April 2026

**KIARIE WAWERU KIARIE
JUDGE**