



REPUBLIC OF KENYA



**Republic v Ongeri & another (Criminal Case E020 of 2023)
[2026] KEHC 4456 (KLR) (18 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 4456 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL CASE E020 OF 2023
TW CHERERE, J
MARCH 18, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPHAT MAYO ONGERI 1ST ACCUSED

VINCENT KENYATTA MAKORI 2ND ACCUSED

RULING

1. The accused persons, Josephat Mayo Ongeri And Vincent Kenyatta Makori, are charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that:

On the 11th day of November, 2023 at Kierira Area Bochari Sub-location within Masaba North Sub-County in Nyamira County, jointly murdered James Misocho Machiegwa alias BRUNO.

2. The accused persons were arrested in November 2023. They were subsequently arraigned before this Court on 29th November 2023, when the charge was read over and explained to them. Each of them pleaded not guilty, and the matter was thereafter fixed for hearing. They have remained in custody since their arrest.
3. The record shows that the case was scheduled for hearing on 27th July 2024, and later on 17th and 18th March 2026. On each of those occasions, the prosecution failed to avail its witnesses, including the investigating officer. On 18th March 2026, the prosecution indicated that it would not be calling any witnesses and proceeded to close its case.
2. The Court of Appeal in *Shangasu v Republic* [2024] KECA 1223 (KLR), held that in a case of murder, the prosecution must prove: first, that the deceased died; second, that the death was caused by the



unlawful act or omission of the accused; and third, that in causing that death the accused acted with malice aforethought as defined under section 206 of the Penal Code. The court will therefore consider the evidence on record against each of these statutory ingredients.

2. In the present case, the prosecution did not call any witness in support of its case. No evidence was tendered to establish the fact of death of the deceased; the cause of death; that the death resulted from an unlawful act or omission; or any nexus between the accused persons and the alleged offence.
2. In those circumstances, I find that the prosecution has failed to establish a prima facie case against the accused persons.
2. Accordingly, pursuant to section 306(1) of the Criminal Procedure Code, I enter a finding of not guilty for the offence of murder contrary to section 203 as read with section 204 of the Penal Code and acquit both Josephat Mayo Ongeru and Vincent Kenyatta Makori. The accused persons shall be set at liberty forthwith unless otherwise lawfully held.

DELIVERED AT NYAMIRA THIS 18TH DAY OF MARCH 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Anita

1st Accused - Present

2nd Accused - Present

For Accused Persons - Mr. Marita for Akanga Matende & Co. Advocates

For the DPP - Mr. Chirchir (SADPP)

