



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL DIVISION- MILIMANI COURT
CRIMINAL CASE NO. 26 OF 2018

REPUBLIC.....APPELLANT
T
RICK CHIKATI JORAM
RESPONDENT

RULING

INFORMATION

1. The Accused Person herein **Rick Chikati Joram**, is charged with the offence of Murder Contrary to **Section 203** as read with **Section 204** of the Penal Code **Cap.63 Laws of Kenya**.

Particulars of the offence being that on the 30th day of April, 2018 at about 11:30Hrs at Kariobangi Mwisho Plaza in Kariobangi North Estate within Nairobi County murdered **Victor Lunani Joram**.

2. On 5/6/2018 the information and every element of the charge were read over and explained to the accused person in Kiswahili a language he understood and he responded 'not true'.

A plea of not guilty was entered on record.

TRIAL COURT PROCEEDINGS

1. The Hearing commenced on 12/11/2019 before Hon D.Ogembo J.

2. PW1 Caleb Wesonga Laban; testified that on 30 /4 2018 at 1pm he was in Darfur, Kariobangi North with his friend David and cousin Rick Chikati from Korogocho having lunch. PW1 stated that the Accused person's father and his father were brothers. Rick Chikati came from buying elasto plast from a shop and was bandaging his bleeding finger. The Accused person Rick told him he was worried on what their cousin Victor (deceased) wanted from him. Victor's mother was/is sister to their fathers.

3. Rick told him that Victor fought him having followed him with a knife in Kariobangi and that he snatched him the knife and stabbed him with it. He told him what happened was not good. Rick told him the issue arose 2 days before while they were at Muthurwa. Rick had

separated with his wife and his wife came to his house and took his motorcycle logbook and his own clothes. Rick and Victor jointly sold clothes. The lady took the logbook and clothes to Victor at Muthurwa so that He could go and get these items from there. The quarrel started when Rick went to ask Victor how he got those items. As they sat he saw Rick was badly cut and thought Victor must have been injured too.

4. He advised Rick to go for tetanus injection and they proceeded to the Chemist and it was on the same line with the hospital; it is his friend Musalia who told him about a man who had been taken to hospital with injuries. PW1 advised Ricky to return the motorcycle to the owner, PW1 went to Selina hospital where Victor was taken and found a crowd gathered as Ricky drove off. He found Victor Lunani placed in an ambulance and he was referred to the Police Station. He declared to the doctor at the reception that both Ricky and Victor were his cousins and the doctor told him that he heard that Victor died while in the ambulance. He went to Kariobangi Police Station and met Officer by name Ndong who confirmed that the body was taken to the Mortuary as unknown. He gave deceased's name as Victor Lunani Joram and recorded his statement.

5. PW2 Allan Ambani Mabare, a mason who specializes in tiles and was/is from Kariobangi. On 30/4/2018 at 11.30 am he was in his house at Kariobangi 1st Floor and was at the window facing outside. He heard noises outside, some ladies shouting; 'Wacha wapigane Wacha wapigane!' At first; he thought they were drunkards; he checked and saw 2 men fighting; one on top of the other. PW2 rushed downstairs to go and see. He separated them. He did not know the 2 men.

6. When PW2 intervened, the one on top heeded and left, he went away about 3 steps. The other man who was down rose up and he looked like he was looking for something on the ground. He did not see him pick up anything. Then; he saw him raise his shirt up, he followed the other man/one while raising his shirt, he asked the one being followed to go away.

7. Then the 2nd man reached him and he saw him remove a knife from his body and when he reached the other one; 1st man who walked away; PW2 saw him stab the other man on the neck and they held each other. At that moment, the 2nd man stabbed the 1st man a 2nd time, now on the leg below the knee. The man with the knife left the other man/one and walked past him. He boarded a motor cycle and drove away.

8.PW2 went to the man who was stabbed; he was bleeding a lot, he walked for about 10 steps and then he fell down and PW2 reached him and many people came. They took him to a nearby hospital whose name he did not remember and handed him to the doctor who started working on his leg. In his presence, the doctor pulled out his shirt and saw blood coming out of the wound on the neck. He left after he told the doctor he did not know him. The man who stabbed the other man was identified by PW2 in Court as the Accused person herein. He later recorded his statement when Police came to his house and learnt that the man who was stabbed succumbed to his death.

9.PW3 CPL Fredrick Wambugu of Kariobangi Police Station stated that on 30/4/2018 at midday he was informed by PC Gatemu reported that members of public reported people fighting in Kariobangi and they proceeded to the scene. PW3 went to Selina Hospital and found a man lying on the floor bleeding from the leg. He asked the doctor about the man and he was informed that the man succumbed to the injuries and took him to City Mortuary.

10.PW4 Daniel Otundo Oduor, a nurse testified that on 30/4/2018; members of the public brought a male

unknown person to Selina Hospital Kariobangi North, they left him there. When he examined him, he had a stab wound on the right thigh and at the back, on appearance he lost a lot of blood and a weak pulse. He did 1st Aid to stop bleeding and referred him for further treatment and called Kariobangi Police station and also called NMS Ambulance & Sonko Rescue Team Ambulance. Within 20 minutes the Police and NMS Ambulance arrived. Immediately, they arrived, the man succumbed while at the facility and he was taken to City Mortuary. He did not know his name. Later, he recorded statement with Kariobangi Police Station.

11. PW5 DR Charles K. Muturi, Pathologist testified on his medical qualifications and that he conducted Post Mortem on one Victor Joram Lunani (deceased) on 11/5/2018 at City Mortuary. General examination, externally was a male African Adult in good nutritional status and was well preserved. He had a blood-soaked bandage on the right thigh on exposure revealed penetrating stab wound on the inner side 5x3cm and the stab wound involved severing of major blood vessels.

12. Internal examination did not reveal any other injuries. He formed the opinion that the cause of death

was shock due to single stab wound to the Lower Limb; shock and loss of body fluid in this case excessive blood loss. He signed and produced Post Mortem Report as Exhibit 1 in Court.

13. On 27/7/2023 Hon LJ L .Mutende took over the matter in compliance with **Section 200 (3) CPC**. On 20/2/2024; PW6 Julia Akinyi Juma stated that in 2018 she lived in Kayole at 11.30 am she went to her cousin's place Grace at Kariobangi and went with 3 daughters. Grace had gone to Eastleigh and she heard men were fighting; one sat on the other, they were wrestling; outside their gate. In the process, Grace's neighbor, a man came and separated them. He removed the one who sat on the other and he begun to walk away.

14. The one on the ground begun to follow the other man and he removed a knife and people shouted, the one who was on the ground had the knife. The other man attempted to run but tripped and fell. He tried kicking the knife but the other man with the knife stabbed him on the knee. He tried still holding the knife threatening to stab; He went kept the knife and climbed on the motor bike and sped off. He returned the knife in his wear/clothes.

15.The one/man who was stabbed screamed and was bleeding profusely; a lady and a man (PW2) carried the victim to Selina Clinic. She held 1 leg and the other lady held the other leg taking him to clinic and waited for the Nurse who then came out and said that the man passed on. They waited until Police carried the body away. 2 weeks later, the deceased's cousin said the Accused was arrested. She identified him in Court.

16.On 6/3/2025 under **Section 200 CPC** was complied with and this Court took evidence of PW7 CPL Richard Ratemo who stated that on 30/4/2018 he received a call from Selina Medical Centre from one Daniel Otundo (PW4) and he informed PW3 and together went to the scene/facility. At the Medical centre they found a man/patient Victor had succumbed to stab wound by severe excessive loss of blood by the caller applied 1st Aid and called for MSF Ambulance. They took the body to City Mortuary.

17.At the Police Station, Caleb Wesonga (PW1) said unknown body was his cousin Victor Joram Lunani and he recorded statements of witnesses. The accused left for rural home. Family members and community almost lynched him and was handed over to Kabraz Police station. PW7 went picked Accused person after he was

arrested on 7/5/2018 and brought him to Kariobangi Police station. He took him to Mathare Hospital for mental assessment and had report filed in Court. The Pathologist conducted Post mortem and Produced report as exhibit in court.

ACCUSED'S WRITTEN SUBMISSION ON A NO CASE TO ANSWER

On 19th February 2026 the accused person filed his submissions and summarized the evidence adduced by Prosecution according to him.

1. That (PWI) was a cousin of both accused and deceased. (PWI)'s father and accused father while deceased was son to sister of (PW1) and accused. (PW1) left his house on 30/4/2018 in the morning at Kariobangi North to Dafuu area with a friend by the name David. At around lunch time he went to look for lunch with the friend when he met his cousin the accused, the accused, who used to stay at Korogocho. The accused was from a shop to buy Elastoplast to tie his fingers that were bleeding. As they spoke the accused told him "huyu victor ananitifuta nini? Amenitifuta vita hapa Kariobangi. "I asked him why he was fighting with Victor Accused said issue started at Muthurwa. Accused

had a girlfriend/wife who he had differed with for a while, they met after sometime and the wife went to accused's place spent a night and next morning accused left his wife in the house and went to do his job leaving wife with keys and some 200 for provisions. Later the wife called him and informed him to collect his house keys from a neighbour. When accused went to his house he found his house turned upside down and his:-

- (i) Ksh. 3000/-
- (ii) Father's motor cycle logbook
- (iii) His clothes missing.

Accused reported the same to mother to his wife who used to sell cloths at Gikomba. The mother assured him that all that was taken form his house would be returned. The wife returned the items to the deceased who had a stall at Gikomba but did not inform the accused hence the bad blood.

2. From the injuries of the accused (PWI) would tell that the

deceased would be having deep injuries. (PWI) asked accused to seek for tetanus injection when he heard that deceased had been taken to Selina Clinic. That is when (PWI) asked accused to take motorbike and seek tetanus injection. When (PW1) went to Selina

Clinic the nurse/Doctor informed him to go to the police station as the person had been taken by police (PW1) went to the police station and he gave the names of the person who had been injured as Victor Lunani Joram who was his cousin and was in an ambulance but had already died.

He stated that (PW1) was not an eye witness nor did he have a chance to speak with the deceased before he died. He came to the scene after the fight had been completed therefore he had no firsthand information.

2. (PW2) while in his house at 11:30am he heard noise from

people saying "*let them fight*" "*let them fight*" he thought they were drunkards but on peeping through the window he saw a person sitting on another who he was hitting with blows. When (PW2) went to the scene, he told the people to stop fighting as they were embarrassing themselves before kids (PW2) posts that the one who was sitting on other heard and decided to leave. The one who was sat on woke up followed the other removed a knife and stabbed the other on the neck and foot. (PW2) further posts that the accused

passed him took a motorcycle and drove off (PW2) followed the person who had been stabbed who made about (10) steps and he fell down. (PW2) posts that he was there alone!

It is (PW2)'s word that he saw some ladies who called and they took the deceased to a nearby Selina Clinic PW2 told the nurse that he did not know the patient but he was being a "good Samaritan and he left.

4. (PW3) number 63383 PCL attached to Kariobangi Police

Station went to Mwisho Plaza with another officer where they found a person lying on the floor at Selina Clinic who was bleeding. The nurse on duty informed them that the person had died and together with other officer they took the body to the City Mortuary. (PW3) observed an injury to the leg.

5. (PW4) a home based care nurse who was at Selina Clinic

on 30/4/2018 said that at about noon members of the public brought an unknown male person to the clinic, threw him on the floor and left. He observed two wounds on the person on the right thigh and back. It was (PW4)'s word that he examined the

person and found him pale with weak pulse. (PW4) arrested the bleeding and decided to refer him for further treatment. It was at this time that many members of the public gathered outside the clinic door steps when the nurse was scared and he called the Kariobangi Police station, MFS Personnel and Sonko Rescue team who came with an ambulance and took the patient but by then the patient had died in their facility whose name was not given

6. (PW5) Elder brother to deceased who used to stay at

Dandora came in after the event and was called by sister when he found brother on stretcher and mother and sister were there. The Doctor came and informed him that his brother had spine injury would not move his legs and he was to be transferred to Kenyatta National Hospital. He was transferred to Kenyatta National Hospital, stayed for two weeks after which his sister called him on 26/9/2018 and informed him that the brother had passed on (PW5) attended the Post mortem of his brother but he did not know the accused.

7. (PW6) stayed at Kayole Masimba on 30/4/2018 she went to her cousin Grace's place at about 11:00am with her two daughters who were playing outside. One of her daughters came in the house and informed her that people were fighting outside (PW6) went out and found one person on top of another. He came and separated them. The one who was sitting on the other walked away while the one who was sat on followed the other where he hit him with a knife, took his motorbike and drove away. (PW6) took the injured person to the nearby clinic. He said that they waited outside the clinic when they were told that the person did not make it. (PW6) further posts that police came and took the body. It was (PW6)'s testimony that she was able to identify the accused as he resembles her cousin. It was her word that she did not know the deceased.
8. (PW7) a pathologist who carried out Post Mortem on the body of the deceased on 11/5/2018 at city mortuary where he found out that the cause of death was a single stab wound that resulted to shock, made body to lose a lot of blood as the body was pale.

9. (PW7) No. 79970 a Corporal formerly attached to Kariobangi Police Station on 30/4/2018 he got a call at 1300hrs from D. Otundo a nurse at Selina Clinic of Mwisho Plaza who needed police assistance as there was a huge crowd outside the facility. The crowd was eager to know the condition of the patient with the stab wound. He took a vehicle and went to the clinic and found patient had died, the nurse was to refer the patient but he died before referral. It was his words that he took the body to City Morgue for preservation and further investigations. After going to Kariobangi Police Station a person came by the name Caleb Wasonga who claimed, the deceased was his cousin by the name of Victor Lunani Joram. It was
10. (PW7)'s word that before Caleb Wasonga had come to the station, he had called deceased go to his house so that they would solve issues between accused and deceased
11. In support of their case the prosecution called (7) seven witnesses. None of the seven witnesses, saw the alleged incidence from the beginning to the end. There are no witnesses who saw/knew when

the real issues to the matter started. The two people who were fighting were blood cousins. These two had grown up in their grandmother's house as brothers. There was no bad blood between them that would have led to one killing the other. Thus, people (PW2) who found them fighting and separated them, did not know, when the fighting started, why it started, nor for how long it had been there. He did not know who among the two fighting had been hurt more than the other before he would casually tell them to stop "embarrassing themselves before kids" he was not privy to the differences between the two, on the other hand, the two had no intention whatsoever of killing one another. They were fighting just cousins squaring themselves out. None had any plan to kill the other. It was sheer shame and embarrassment of one having been sat on for a while and when the opportunity arose, the other was hurting and he hit back.

12. At the same time he only hit the deceased once per, the postmortem report. It was a single stab wound to the thigh that led to excessive bleeding. At the same time, the people who took deceased to

clinic threw him on the floor and left claiming they were "being good samaritans an accident victim, who was bleeding profusely, not accompanied to a private clinic would easily die because even the clinic required to be paid for services to be rendered and there appear to have been no one to stand in for the deceased. There was nobody to stand in for his treatment, thus reason he died. If the deceased had been attended to and the bleeding arrested at the first instance, then maybe the death would have not occurred

13. Even the fighting of each other was an issue of motor cycle logbook, Kshs 3000/- and some clothes for accused that were left with the deceased which items did not reach their destination courtesy of the deceased. The two witnesses who stated that the deceased had two injuries at the neck and thigh did not see the stabbing clearly as the postmortem revealed just one stab wound consistent with the postmortem that killed the deceased. At the same time the accused had bleeding fingers, though his cousin the (PWI) he posts that he had come armed with a knife to hit

the accused who held the knife tight though the knife cut his two fingers that were bleeding when he met the cousin (PW1).

14. The (PW3) the police officer who collected the deceased's body from Selina Clinic to the City Morgue confirmed that the deceased had an injury, wound at the leg. Thus, it was just one single stab wound as put by the Pathologist. (PW1) the cousin also informed police that when he saw the deep injury of the accused, he suspected that the other cousin, would be hurt.

He reached out to him so that he could go to his house to sought out any issues they had between the two cousins as the issues were not that serious to call for the death of another cousin.

15. The knife that was said to be the murder weapon was not presented before court as part of the evidence. Nothing was tendered to connect the accused to the deceased apart from what he told his cousin (PW1). From his statements he had no plans of killing the deceased. There would have been bad blood between the two but the same was

not bad enough to warrant to the death of the other

16. The motive for this murder was not there, no plans or preparation for the same.

PROSECUTIONS SUBMISSION ON CASE TO

ANSWER

17. The prosecution called a total of six witnesses and produced one exhibit in support of its case. The evidence tendered was oral and documentary in nature.

The prosecution relies on the following grounds:

1. Death of the deceased

There is no dispute as to the death of the deceased. The demise was confirmed by D5 and D6 who positively identified the body of the deceased as their nephew and brother respectively. PW 4, the nurse from Selina Medical Center confirmed that the deceased was brought in with stab wounds on the right thigh and back and was severely bleeding, he testified that the deceased succumbed to these injuries.

The post mortem report, as referenced by PW 3, confirmed the cause of death was a stab wound to the lower limb, leading to excessive bleeding.

2. Was the death caused by an unlawful act or omission?

PW6, a neighbour testified that on the 30th of April, 2018 at approximately 11:30 pm, her three-year old informed her that there were people fighting outside. When she rushed outside she found two men fighting and when other neighbours intervened and separated the two, the accused drew a knife and stabbed the deceased on the right thigh during the fight. She further stated that the accused fled and they took the deceased to a hospital where he later succumbed to his injuries.

3. PW4, the nurse recalls that on 30 April 2018 at around 12:00 pm, while at his place of work. members of the public brought in the deceased who had stab wounds on the right leg and another on the back while he was severely bleeding. He further stated that these injuries caused the profuse bleeding that eventually led to his death. His evidence confirms that the wounds were inflicted by

a sharp object, consistent with PW's account of a knife.

4. PW3, a police officer recalls that on 30 April 2018 at around 12 pm he was informed of the murder incident reported within Mwisho Plaza in Kanobangi North Estate. He accompanied other police officers to the hospital where the deceased had been rushed to for medical treatment before he succumbed to his wounds. Members of the public that were present told him that there was a fight between the deceased and the accused and that the accused drew a knife and stabbed the deceased twice.

The post mortem report provides the medical foundation, confirming that the death was directly caused by a stab wound. There is no evidence suggesting that it was an accident, an act of self-defense or a lawful use of force.

The direct witness testimonies, medical evidence of the first responder and the official post mortem findings leave no room for any inference other than the death of the deceased was the direct and

unlawful result of a stabbing perpetrated by the accused

5. That in causing the death the perpetrator was motivated by malice aforethought.

Malice aforethought is established under **Section 206** of the Penal Code where there is evidence of :-

“(a) An intention to cause the death of or to do grievous harm to any person, whether that person is the person actually killed or not;

(b) Knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;

(c) An intent to commit a felony;

(d) An intention by the act or omission to facilitate the flight or escape from custody of any person who has committed or attempted to commit a felony.

6. The prosecution has adduced compelling evidence from which this Court can infer that the accused acted with malice aforethought. The presence of a guilty mind

is demonstrable from the accused's conduct both prior to and during the omission of the offence. Critically the testimony from PW6 established that the accused did not simply happen upon a weapon during the struggle, but had come to the scene pre-armed with a knife hoisted in his left waist. This prior preparation indicates a premeditated readiness to deploy lethal force, should the occasion arise.

7. The nature of the knife as a lethal weapon is unequivocal and its use to repeatedly penetrate the body of the deceased demonstrates a clear and calculated intention to cause grievous harm or death, with utter indifference to the consequences. This interpretation is firmly supported by ***Republic v Tubere s/o Ochen (1945) EACA 63*** where it was held:

“Malice aforethought can be discerned from the nature of the weapon used, the manner in which it was used, the part of the body targeted, the nature of the injuries inflicted, and, the conduct of the accused before, during and after the incident”

The targeting of substantial parts of the body, such as the torso and upper leg, negates any suggestion of an

accident or an intention to inflict superficial harm. Therefore, the accused's conscious choice to arm himself, followed by the deliberate and repeated use of a lethal weapon on the deceased body, leaves no reasonable doubt that the accused possessed the malice aforethought necessary to sustain a conviction for the offence of murder.

8.The accused was positively identified as the perpetrator.

The prosecution's case is strengthened by direct and circumstantial evidence that conclusively places the accused as the individual who inflicted the fatal wounds upon the deceased. PW6 testified that she witnessed the physical altercation, during which she saw the accused, whom she could physically identify, deliberately draw a knife from his left waist and stab the deceased. PW1 the brother to the deceased, testified that the accused himself admitted to the act, stating that "the deceased started a fight which he couldn't finish" and explicitly confessing that "he had stabbed the deceased using a knife."

The standard of proof required at this stage was definitively laid down in the case of **Ramanlal**

Trambaklal Bhatt v Republic [1957] EA 332,
where the court held

"It may not be easy to define what is meant by a 'prima facie case, but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defense."

DETERMINATION

In the case of **Anthony Njue Njeru vs Republic Court of Appeal No 77 of 2006;** the Court determined the scope and content of case or no case to answer Ruling by the Court as follows;

[Is]Was there a prima facie case to warrant the Trial Court to call upon the appellant to defend himself? It is a cardinal principle of our law that the onus is on the prosecution to prove its case beyond reasonable doubt and a prima facie case is not made out if, at the close of prosecution the case is merely one "which on full consideration might possibly be thought sufficient to sustain a conviction".

The issue of what is a prima facie case in criminal trials was clearly explained in **Ramanlal Trambaklal Bhatt**

vs R [1957] E.A. 332 at P. 334-335 where it was said:-

“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot agree that a prima facie case is made out if, at the close of the prosecution, the case is merely one:-

“Which on full consideration might possibly be thought sufficient to sustain a conviction.”

This is perilously near suggesting that the court would not be prepared to convict if no defense is made, but rather hopes the defense will fill the gaps in the prosecution case.

Nor can we agree that the question whether there is a case to answer depends only on whether there is:-

“some evidence, irrespective of its credibility or weight, sufficient to put the accused on his defense.”

In the instant case, on record the evidence recorded is that hearing commenced on 12/11/2019 before Hon D Ogembo J evidence of PW1 PW2 PW3 PW4 PW5 & Hon. LJ L.Mutende took evidence of PW6 and this Court took evidence of PW7 and the Prosecution closed its case.

DISPOSITION

1. Upon this Court’s consideration of the totality of the evidence adduced and on record,

the Prosecution has proved a *prima facie* case that warrants the Accused person to be placed on his Defense.

2. Further Mention for Directions on 14/4/2026

RULING DELIVERED SIGNED DATED IN OPEN COURT

CRIMINAL DIVISION HIGH COURT NAIROBI ON 16/3/2026 READ OUT ON 21/3/2026 ONLINE

M.W. MUIGAI

JUDGE