



**Republic v Wairimu alias Kachali alias Kangori (Criminal Case E001 of 2026) [2026] KEHC 6054 (KLR) (Crim) (7 May 2026) (Ruling)**

Neutral citation: [2026] KEHC 6054 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
CRIMINAL  
CRIMINAL CASE E001 OF 2026**

**KW KIARIE, J**

**MAY 7, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**SIMON NGIGE WAIRIMU ALIAS KACHALI ALIAS KANGORI ..... ACCUSED**

**RULING**

1. Simon Ngige Wairimu alias Kachali alias Kangori 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 12th day of October 2025, at Magumu location, South Kinangop sub-county within Nyandarua County, he murdered John Thuo Mburu.
3. Milly Wairimu Wacuka (PW1) testified that she met the accused at the door, where he had blood on his forehead, was crying, and claimed some people wanted to attack him, though he did not specify who. She told him to run away. Later, a customer told her that someone had been stabbed outside the bar.
4. Francis Chege Njoroge (PW4) testified that in November 2025, the accused asked him to get a knife from an abandoned school pit latrine, but he refused. When he later went to the latrine with police officers, they did not find the knife.
5. The testimony of these two witnesses casts some suspicion on the accused's involvement. However, the suspicion that linked him to the crime was not supported by any tangible evidence. In the *Sawe vs Republic* case [2003] *KLR*354, the Court of Appeal stated:

Suspicion, however strong, cannot provide the basis of inferring guilt, which must be proved by evidence beyond a reasonable doubt.



6. When can it be said that the prosecution has established a prima facie case? According to *Black's Law Dictionary*, 10th Edition, a prima facie case is defined as follows:

Prima facie case. (1805) I. The establishment of a legally required rebuttable presumption. 2. A party's production of enough evidence to allow the fact-trier to infer the fact at issue and rule in the party's favour.

7. The Court of Appeal in the case of *Ramanlal Trambaklal Bhatt v. R* [1957] E. A 332 at 334 and 335 defined a prima facie case as follows:

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 defence.

8. Article 50 (2) (i) of the *Constitution* of Kenya provides:

(2) Every accused person has the right to a fair trial, which includes the right—

(i) to remain silent, and not to testify during the proceedings;

9. In this case, if the accused chooses to exercise his constitutional rights as mentioned earlier, I cannot convict him based on the available evidence. This indicates that the prosecution has not proven a prima facie case against him. Therefore, he is acquitted of the murder charge under section 306 (1) of the *Criminal Procedure Code*. He is to be released unless there are other lawful grounds for his detention.

**DELIVERED AND SIGNED AT NYANDARUA, THIS 7<sup>TH</sup> DAY OF MAY 2026**

**KIARIE WAWERU KIARIE**

**JUDGE**

