



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Chote & 8 others (Criminal Case E024 of 2021)
[2024] KEHC 6324 (KLR) (30 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 6324 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE E024 OF 2021**

A. ONG'INJO, J

MAY 30, 2024

BETWEEN

REPUBLIC PROSECUTOR

AND

MZUNGU SHUME MWANGEMI ALIAS SAIDI CHOTE 1ST ACCUSED

ONESMUS GAMBO KARISA 2ND ACCUSED

ROBERT MGANGA MWAGOSHA 3RD ACCUSED

KENNEDY MWANGEMI SHUME 4TH ACCUSED

VICTOR KOLE CHINYEZI ALIAS NGATE 5TH ACCUSED

DANIEL KARISA ALIAS MBOSO 6TH ACCUSED

ANTONY WANJE MBOGO ALIAS MGANGA 7TH ACCUSED

LABAN MWATATA RIMBA 8TH ACCUSED

CLIFF NGOMBO NGARI 9TH ACCUSED

RULING

1. The accused persons Mzungu Shume Mwangemi alias Saidi Chote, Onesmus Gambo Karisa, Robert Mganga Mwagosha, Kennedy Mwangemi Shume, Victor Kole Chinyezi alias Ngate, Daniel Karisa alias Mboso, Antony Wanje Mbogo alias Mganga, Laban Mwatata Rimba and Cliff Ngombo Ngari face a charge of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#) Cap 63 of the Laws of Kenya.
2. The particulars on Count 1 are that Mzungu Shume Mwangemi alias Saidi Chote, Onesmus Gambo Karisa, Robert Mganga Mwagosha, Kennedy Mwangemi Shume, Victor Kole Chinyezi alias Ngate,



- Daniel Karisa alias Mboso, Antony Wanje Mbogo alias Mganga, Laban Mwatata Rimba And Cliff Ngombo Ngari on the 7th day of July 2021 at Junju Village of Kilifi South Sub County within Kilifi County jointly with others in court murdered Sidiki Anverali Sumra.
3. The particulars on Count 2 are that Mzungu Shume Mwangemi alias Saidi Chote, Onesmus Gambo Karisa, Robert Mganga Mwagasha, Kennedy Mwangemi Shume, Victor Kole Chinyezi alias Ngate, Daniel Karisa alias Mboso, Antony Wanje Mbogo alias Mganga, Laban Mwatata Rimba and Cliff Ngombo Ngari on the 7th day of July 2021 at Junju Village of Kilifi South Sub County within Kilifi County jointly with others in court murdered Rahil Kasmani Mohamed.
 4. The particulars on Count 3 are that Mzungu Shume Mwangemi alias Saidi Chote, Onesmus Gambo Karisa, Robert Mganga Mwagasha, Kennedy Mwangemi Shume, Victor Kole Chinyezi alias Ngate, Daniel Karisa alias Mboso, Antony Wanje Mbogo alias Mganga, Laban Mwatata Rimba and Cliff Ngombo Ngari on the 7th day of July 2021 at Junju Village of Kilifi South Sub County within Kilifi County jointly with others in court murdered James Kafana Mzungu.
 5. The prosecution called 12 witnesses to support its case that the accused person committed the offence herein, however, PW6 who was stood down did not come back to testify.
 6. From the evidence of the 11 prosecution witnesses, this court finds that the Accused Persons whose names have been mentioned time and again as having involvement in the land dispute and may have interacted with the deceased persons herein on the material date when the offence was committed are the 2nd and 3rd Accused Persons. From the evidence of the Investigating Officer, PW12 PC Dennis Isemek and other witnesses, the rest of the Accused Persons were arrested for either being squatters on the parcel of land in question or as a result of a raid by the GSU officers and profiling.
 7. This court therefore finds that the prosecution established a prima facie case sufficient to call upon the 2nd and 3rd accused persons to defend themselves. They have a case to answer.
 8. As for the 1st, 4th, 5th, 6th, 7th, 8th and 9th Accused Persons, this court finds that there is no evidence linking them to the murder of the deceased persons herein. The fact that they are squatters on the parcel of land in question is not sufficient reason to find that they may have committed the offence. The officers who arrested the accused persons did not attend court to explain the circumstances under which they were arrested or how they were connected to the offence herein. This court therefore finds that they have no case to answer and they are acquitted under Section 210 of the Criminal Procedure Code.

**DATED, SIGNED AND DELIVERED IN OPEN COURT/ONLINE THROUGH MS TEAMS,
THIS 30TH DAY OF MAY 2024**

HON. LADY JUSTICE A. ONG'INJO

JUDGE

In the presence of: -

Etropia- Court Assistant

Mr. Ngiri for the State

Mr. Ganzala H/B for Mr. Ljoodi Advocate for 1st and 4th Accused Persons

Mr. Kinyanjui Advocate for 3rd Accused Person

Ms. Ayieko & Mr. Ganzala H/B for Mr. Kakai Advocate for 2nd and 5th Accused Persons

Mr. Ganzala Advocate for 6th Accused Person



Ms. Okumu Advocate for 7th Accused Person

Mr. Ireri Advocate for 8th Accused Person

Mr. Ganzala H/B for Mr. Obara Advocate for 9th Accused Person

1st Accused present in person

2nd Accused present in person

3rd Accused present in person

4th Accused present in person

5th Accused present in person

6th Accused present in person

7th Accused present in person

8th Accused present in person

9th Accused present in person

HON. LADY JUSTICE A. ONG'INJO

JUDGE

Mr. Ganzala Advocate for 2nd Accused Person: We pray for a copy of ruling and date for defence

Mr. Lijoodi Advocate: We pray for a date for defence. I will communicate to Mr. Kinyanjui

Orders: Defence hearing on 24.6.2024. For 1st, 4th and 5th Accused Person's security for bond deposited for accused persons acquitted to be released forthwith to sureties.

HON. LADY JUSTICE A. ONG'INJO

JUDGE

