



**Republic v Mwikamba alias Kiangi & another (Criminal Case
9 of 2020) [2025] KEHC 1015 (KLR) (20 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1015 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT CHUKA
CRIMINAL CASE 9 OF 2020
LW GITARI, J
FEBRUARY 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

NICHOLAS KITHINJI MWIKAMBA ALIAS KIANGI 1ST ACCUSED

JULIUS NJERU NJERU ALIAS KAUMBA 2ND ACCUSED

RULING

1. The accused are charged with murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars are that on 7th April 2020, at Mautini Village, Tharaka North Sub-County, jointly with others not before the court, unlawfully murdered Peter Macharia. The accused were charged vide information dated 28/10/2020.
2. The accused person denied the charge. The prosecution called ten witnesses and closed their case. What is pending before me is a Ruling as to whether the prosecution has established a prima facie case to warrant this court to order the accused to be called upon to address the court in their defence.
3. Under Section 306(1) of the [Criminal Procedure Code](#), the duty of this court is to determine whether the prosecution has established a prima facie case to warrant the accused person to be put on their defence. The test of prima facie case was laid down in the case of Ramanlal T. Bhatt v Republic [1957] E.A 332, where the court stated that a prima facie case is one on which a reasonable tribunal, properly addressing its mind to the facts (evidence) and the law, could convict if no explanation is offered by the defense. In determining whether there is a case to answer, the court has to analyze the evidence adduced and the law and come up with its determination.
4. In this case, the prosecution called witnesses who were eye witnesses to the events leading to the death of the deceased. I have considered the evidence adduced by the witnesses and I find that the prosecution



has adduced sufficient evidence which has established a prima facie case to warrant the accused to be called upon to give their defence.

5. Section 306(1) & (2) of the *Criminal Procedure Code*, provides as follows:
6. The accused are at liberty to address the court in their defence as provided under Section 77 they opt to give their defense on oath, they shall be cross-examination by the prosecution. They are also at liberty to call witnesses in support of their defence. Case.

Conclusion

7. The accused have a case to answer and shall be put on their defence as charged.

DATED, SIGNED AND DELIVERED AT CHUKA THIS 20TH DAY OF FEBRUARY 2025

HON. LADY JUSTICE L. GITARI

JUDGE

ORDER

The matter shall be mentioned on 24/03/2025 for the accused to state whether they will give a defence and the mode of defence.

Dated, signed and delivered at Chuka this 20th day of February 2025

HON. LADY JUSTICE L. GITARI

JUDGE

