



**Republic v Githua alias Wagatare (Criminal Case E038 of 2023)
[2025] KEHC 2781 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2781 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE E038 OF 2023
JM NANG'EA, J
MARCH 13, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

SAMWEL NDEGWA GITHUA ALIAS WAGATARE ACCUSED

RULING

1. The accused person was charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence state that on 17/9/2023 at Kwa Muhoroo village (Jirani Farm) ,Njoro Sub County, within Nakuru County, he murdered Andrew Wanyonyi Barasa. He denied the charge.
2. I have perused the prosecution evidence against the charge facing the accused person. The defence chose not to offer submissions on “no case to answer”. The burden on the prosecution at this stage is to prove that a prima facie case has been made out for the accused to be put on his defence. A prima facie case has long been defined in the famous case of Ramanlal T. Bhatt vs. Republic as one on which a court or tribunal, “properly directing itself to the law and the evidence, could convict if no explanation is given by the defence.” This does not mean that the court must in every case, be prepared to convict if no evidence is offered by the accused. The court’s decision depends on the particular circumstances of a case taking into account the accused’s constitutional and legal right to remain silent and not adduce any evidence since the burden is on the prosecution to prove a charge to the required legal standard.
3. Where the court concludes that a prima facie case has been established, it is not advisable to give reasons for the decision (See Case law in Festo Wandera vs Republic [1980] KLR 103 among other judicial determinations. The reason is obviously so that an impression is not created that the court has already made up its mind before a defence is given.



4. Without delving into detail about the prosecution evidence, I am of the opinion that the prosecution discharged its duty of making out a prima facie case. The accused is accordingly put on his defence to the charge.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 13TH DAY OF MARCH , 2025.

J. M. NANG'EA , JUDGE.

In the presence of:

The Prosecution Counsel , Ms Sang

The Defence Counsel, Ms Kamau

The Accused, present

Court Assistant, Jeniffer

J. M. NANG'EA, JUDGE.

