



**Republic v Makori (Criminal Case E049 of 2023)  
[2025] KEHC 2950 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2950 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CRIMINAL CASE E049 OF 2023  
JM NANG'EA, J  
MARCH 13, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**PETER ISANDE MAKORI ..... 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 20/8/2023 at Kibindu area, Molo Sub County within Nakuru County, he murdered Peter Onderi Bunuke. He denied the charge.
2. The prosecution called a total of 7 witnesses. The defence Counsel chose not to make submissions on “no case to answer” upon the close of the prosecution case.
3. I have considered the prosecution evidence vis-a- a viz the charge facing the accused. 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 favour of *Ramanlal T. Bhatt vs Republic* [1957] EA 332 as “one on which a reasonable tribunal, properly directing itself, its mind 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.
4. 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 hearing the defence.



5. Without analyzing the evidence in detail at this stage, 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 State Counsel , Ms Sang

Ms Kimotho for Ms Wairimu Advocate for the accused

Accused, present

Court Assistant (Jeniffer)

**J. M. NANG'EA, JUDGE.**

