



**State v Miruka & another (Criminal Case (MURDER) E021
'A' of 2022) [2025] KEHC 3622 (KLR) (24 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3622 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE (MURDER) E021 'A' OF 2022**

**DK KEMEL, J
MARCH 24, 2025**

BETWEEN

STATE PROSECUTION

AND

FABIAN OWITI MIRUKA 1ST ACCUSED

VICTOR ODHIAMBO MIRUKA 2ND ACCUSED

RULING

1. Both accused herein Fabian Owiti Miruka and Victor Odhiambo Miruka have been charged with an offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars are that on 25th day of April 2021 at Bar Kowino Sub-Location, in Bondo Township Location, Bondo Sub County within Siaya County, jointly with others not before court, murdered one Stephen Oyugi Rajula.
2. The prosecution called six (6) witnesses in support of its case.
3. At this stage of the proceedings, the prosecution is under a duty to establish a prima facie case against both accused persons so as to warrant them to be called upon to make a defence. A prima facie case is one in which a reasonable tribunal directing its mind to the law and evidence placed before it can convict an accused in the absence of evidence to the contrary by the defence. In a nutshell, the evidence so far tendered by the prosecution at this stage of the proceedings should be sufficient to convict both accused were they to elect to remain silent in defence. See BHATT VS. R [1957] EA 334.
4. It is trite that a trial court while making a determination on whether an accused person has a case to answer is expected to be circumspect so as to ensure that it does not prejudice the defence. In the present case, it was the evidence of PW5 who is the wife of the deceased and who testified that she was with her husband when the two accused persons herein together with another whom she did not know assaulted her husband. It was the evidence of PW1 that the deceased rushed to him for help and that



the said PW1 assisted him to hospital. The deceased died while undergoing treatment. Going by the evidence of PW5, it is clear that the accused persons were placed at the scene of crime and therefore they must now offer an explanation as to how the deceased met his death.

5. In the result, it is my finding that the prosecution has established a prima facie case against both accused herein to require them to make a defence. Consequently, I find Fabian Owiti Miruka and Victor Odhiambo Miruka have a case to answer. They are now called upon to elect to conduct their defence in accordance with the provisions of section 306 (2) of the [Criminal Procedure Code](#).

DATED AND DELIVERED AT SIAYA THIS 24TH DAY OF MARCH, 2025.

D. KEMEI

JUDGE

In the presence of:

Fabian Owiti Miruka.....1st Accused

Victor Odhiambo Miruka.....2nd Accused

Oduor for Mshindi.....for both Accused

Soita.....for Prosecution

Mboya.....Court Assistant

