



**Republic v Odaha & another (Criminal Case E030 of 2024)  
[2025] KEHC 4454 (KLR) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4454 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E030 OF 2024**

**DK KEMEL, J**

**APRIL 8, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**PETER MUHUA ODAHA ..... 1<sup>ST</sup> ACCUSED**

**LEONARD OUMA OBALA ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. Both accused herein Peter Muhua Odaha and Leonard Ouma Ogola 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 the 31<sup>st</sup> day of May, 2024 at Honge Beach Village in Usenge Sub-Location, Bondo Sub-County within Siaya County, jointly with others not before court murdered George Onyango Marango.
2. The prosecution called nine (9) witnesses in support of its case. The prosecution's case is that the deceased who had been a fisherman at Usenge Beach is reported to have disappeared. Apparently, the deceased had visited one of his customers whom he frequently supplied fish and whom he had a love affair with. PW1 who is a brother to the deceased went in search of him. He teamed up with other relatives (PW2, PW3) and went to Usenge Beach and met the deceased's friend (PW4) and together they went to Usenge police station but were turned away. They went to the home of a certain lady PW6 who was claimed to have been the deceased's friend and managed to recover the deceased's pair of sandals and a black belt produced as exhibits by PW9. That they managed to get the area Clan Elder (2<sup>nd</sup> Accused herein) who informed them that the deceased had been killed because of having a love affair with PW6. That they later learnt that the deceased had been assaulted as soon as he left the home of PW6 by certain villagers who were relatives of the husband of PW6. That later, the body of the deceased which had decomposed was discovered by the 1<sup>st</sup> Accused who went to report at Usenge Police Station but who was locked in the cells. The scene was visited by PW9 and had the remains taken to the mortuary and later established that the deceased had had a love affair with PW6 and that the in-



laws of PW6 were angry about it and attacked him. After the autopsy had been conducted, the two accused were thereafter charged with the offence.

3. At this stage of the proceedings, the prosecution is under a duty to establish a prima facie case against the accused persons so as 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 could convict an accused if no evidence to the contrary is offered by the defence. *Se Bhatt vs. R* [1957] EA 334.
4. After an analysis of the entire evidence at his stage of the proceedings, I find that the two accused persons were placed at the scene of crime and thus they must now offer an explanation as to how the deceased met his death.
5. In view of the foregoing, I find that a prima facie case has been made out by the prosecution against both accused herein to require them to be placed on their defence. Consequently, I find each accused has case to answer and are now called upon to elect to make their defence in accordance with the provisions of Section 306 (2) of the *Criminal Procedure Code*.

**DATED AND DELIVERED AT SIAYA THIS 8<sup>TH</sup> DAY OF APRIL, 2025**

**D. KEMEI**

**JUDGE**

In the presence of:

Peter Muhua Odaha.....1<sup>st</sup> Accused

Leonard Ouma Obala.....2<sup>nd</sup> Accused

M/s Owenga.....for 1<sup>st</sup> Accused

M/s Owenga for Kadera.....or 2<sup>nd</sup> Accused

Kofa.....for Prosecution

Okumu.....Court Assistant

