



**Republic v Owama & 2 others (Criminal Case E019 of 2023)
[2025] KEHC 6493 (KLR) (19 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6493 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E019 OF 2023**

**DK KEMEL, J
MAY 19, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JOHN OCHIENG OWAMA 1ST ACCUSED

FLORENCE ACHIENG OWAMA 2ND ACCUSED

BRIAN ONYANGO OCHIENG 3RD ACCUSED

RULING

1. The accused persons herein John Ochieng Owama, Florence Achieng Owama and Brian Onyango Ochieng have been charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. The particulars are that on 18th June 2023 at an unknown time together with others not before court in Gongo village of Koyeyo Sub Location, Central - Alego Location Siaya Sub County within Siaya County unlawfully killed one Daniel Odhiambo Odongo.
2. The prosecution’s case is that on the material date, the accused persons attacked the deceased who was their neighbor on allegations that he had killed a sheep. The deceased sustained very serious injuries and as the wife was preparing to take him hospital, he succumbed to the said injuries. A post mortem was later conducted by Dr. Erick Okongo (PW6) who formed the opinion that the cause of death was cardio respiratory failure secondary to tension hemothorax. Investigations were carried out by Number 254222 Pc Clifford Gikundi (PW8) who subsequently organized for the arrest of the accused persons and arraignment in court.
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 warrant them to be placed on their 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 even if no evidence is tendered by the accused to the contrary. (See Bhatt Vs. R [1957] EA



- 332). What this means is that the evidence tendered so far at this stage should be sufficient to sustain a conviction against the accused persons were they to elect to remain silent in defense.
4. Learned Counsels for the parties herein opted not to file submissions in this regard and left the court to consider the evidence that has been tendered.
 5. Having considered and analysed the entire evidence as presented by the prosecution at this stage of the proceedings, it is not in dispute that the deceased was a neighbor to the three accused persons herein. It is not in dispute that the accused persons found their sheep dead at a sorghum plantation and that they carried it to the deceased's home and placed it on his bed. It is also not in dispute that the matter was reported to the village elder who had advised the parties to be patient until the following morning when he would sit them down to sort out their issues. It is also not in dispute that the accused persons herein were placed at the scene of the crime by the evidence of PW1, PW2, PW3 and PW4 who testified and that they were the last people at the deceased's home that night before he was found seriously injured the following morning which injuries he succumbed to. Since the three accused persons were seen assaulting the deceased and that they were the last persons at the home of the deceased before his demise, they must now offer an explanation as to how he met his death.
 6. Consequently, it is my finding that the prosecution has established a prima facie case against the accused persons to warrant them to be placed on their defense. I find the accused persons herein John Ochieng Owama, Florence Achieng Owama and Brian Onyango Ochieng have a case to answer and are now called upon to elect to conduct their defence in line with the provisions of section 306(2) of the [Criminal Procedure Code](#).

DATED AND DELIVERED AT SIAYA THIS 19TH DAY OF MAY, 2025

D. KEMEI

JUDGE.

