



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**State v Odhiambo (Criminal Case E025 of 2023)
[2025] KEHC 6224 (KLR) (20 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6224 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E025 OF 2023**

DK KEMEL, J

MAY 20, 2025

BETWEEN

STATE PROSECUTION

AND

DANIEL ODHIAMBO ACCUSED

RULING

1. The accused herein Daniel Odhiambo has 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 26th day of July 2023 at around 1100hrs in Pap Yamo village of Komenya Kowala Sub-Location, West Alego Location in Siaya Sub-County within Siaya County, jointly with another not before court unlawfully killed one Aloice Ochieng Nyapola.
2. The prosecution called seven (7) witnesses in support of its case. The prosecution's case is that on the material date, the deceased herein was milking a cow outside their home when the accused herein in the company of another accosted him and then attacked him with sticks. The deceased fell down and then the accused's companion kicked a jug of milk that the deceased was holding spilling the milk. The deceased ran into the house for escape while the accused herein pursued him there and continued beating him while the deceased was pleading to be left alone. The deceased's mother (PW1) attempted to rescue him in vain as the accused was hostile to her. The said PW1 decided to take the deceased whose legs and ribs had been broken to Siaya District Hospital. The deceased died afterwards. The body was later taken for autopsy which was conducted by Doctor Okong'o Eric on 29/7/2023 who formed the opinion that the cause of death was tension pneumothorax with polytrauma. He produced the autopsy report as Exhibit -1. The accused was later arrested and charged.
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 v R [1957] EA 334.

4. After an analysis of the entire evidence at his stage of the proceedings, I find that the accused herein was placed at the scene of crime by the evidence of PW1, PW2 and PW6 and thus he 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 the accused herein to require them to be placed on their defence. Consequently, I find accused herein Daniel Odhiambo has case to answer and is now called upon to elect to make his defence in accordance with the provisions of Section 306 (2) of the [Criminal Procedure Code](#).

DATED AND DELIVERED AT SIAYA THIS 20TH DAY OF MAY 2025.

D. KEMEI

JUDGE

In the presence of:

Daniel Odhiambo.....Accused

Oduol.....for Accused

Soita.....for Prosecution

Okumu.....Court Assistant

