



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Lempporos (Criminal Case 2 of 2020)
[2025] KEHC 10310 (KLR) (11 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 10310 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MARALAL
CRIMINAL CASE 2 OF 2020
AK NDUNG’U, J
JUNE 11, 2025**

BETWEEN

REPUBLIC ADVOCATE

AND

POROU LEMPPOROS ACCUSED

RULING

1. The accused, Porou Lempporos, is charged with murder Contrary to Section 203 as read with Section 204 of the Penal code. Particulars of the charge were that on 22/01/2020 at Sirata Location, Samburu Central Sub-county, Samburu County, murdered Newton Sankan Lesikinwa.
2. In support of the charge, the prosecution called a total of 8 witnesses. The fact of death is confirmed by the medical officer, Robert Nato, through the Post Mortem report produced on his behalf by Dr. Silas Ludeke and which attributes the cause of death to massive bleeding secondary to stabbing of the left lung and aorta.
3. The evidence of PW2 was that she saw the Accused and the deceased enter a plot where her salon was located. The deceased greeted them and told PW2 that he would pay her debt and it is then that the accused queried about payment of his (accused’s) debt and a quarrel ensued. The deceased removed a knife and asked deceased to pay or he be killed. She saw the accused stab the deceased with a knife. She had tried to intervene but the accused moved her aside. The stab was on the left below the ribs. The accused left with his knife which was bloody. PW2 identified the murder weapon, a knife. She knew both the Accused and the deceased.
4. PW5, PW7 and PW8 all place the accused at the scene of the crime at the material time and they saw him with the deceased from whom he was demanding money.
5. PW3 testified that he arrived at the scene after the incident had taken place. He saw a crowd gathered at the shop of PW2. He was informed that someone had been killed. PW3 entered the plot and found



the deceased lying on the ground with blood oozing from the left side of chest. He looked at the body and formed opinion that the victim was dead. He drove towards the direction that the accused had followed and he recovered a knife from the accused. It was bloody.

6. PW6 gave a chronology of the investigations done including a visit to the scene, the re-arrest of the suspect from members of the public and the collection of the body of the deceased.
7. The prosecution and the defence filed written submissions.
8. I have carefully considered the evidence tendered. Am alive to the fact that at this stage, the court's duty is limited to making a finding whether the prosecution has established a prima facie case to warrant the accused being placed on his defence.
9. The term Prima facie is not defined under Section 306 of the *Criminal Procedure Code*.
10. In Republic vs. Abdi Ibrahim [2013] EKLK, a prima facie case was defined as follows:

“Prima facie” is a Latin word defined by Black’s Law Dictionary, 8th Edition as “Sufficient to establish a fact or raise a presumption unless disproved or rebutted”. “Prima facie case” is defined by the same dictionary as “The establishment of a legally required rebuttable presumption”.

11. In Ramanlal Trambaklal Bhatt v. R [1957] E.A 332 at 334 and 335, the court stated as follows:

“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot agree that a prima facie case is made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.” This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather hopes the defence will fill the gaps in the prosecution case. Nor can we agree that the question whether there is a case to answer depends only on whether there is “some evidence, irrespective of its credibility or weight, sufficient to put the accused on his defence”. A mere scintilla of evidence can never be enough: nor can any amount of worthless discredited evidence...It is may not be easy to define what is meant by a “prima facie case”, but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.”

12. Similarly, in Ronald Nyaga Kiura vs. Republic [2018] eKLR the court stated as follows:

“It is important to note that at the close of prosecution, what is required in law at this stage is for the trial court to satisfy itself that prima facie has been made out against the accused person sufficient enough to put him on his defence pursuant to the provisions of Section 211 of the *Criminal Procedure Code*. A prima facie case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebuttal is offered by an accused person. This is well illustrated in the cited Court of Appeal case of Ramanlal Bhat -vs- Republic [1957] EA 332. At that stage of the proceedings the trial court does not concern itself to the standard of proof required to convict which is normally beyond reasonable doubt. The weight of the evidence however must be such that it is sufficient for the trial court to place the accused to his defence.”



13. For the establishment of a prima facie case in a murder trial, the court must be alive to the ingredients of the offence and weigh the evidence in relation to the same. The ingredients were well set out in the case of Anthony Ndegwa Ngari v Republic (2014) eKLR as follows;
- i. The fact of death.
 - ii. The fact that the deceased's death was caused by an unlawful act or omission.
 - iii. That the accused committed the unlawful act which caused the death of the deceased; and
 - iv. That the accused had malice aforethought.
14. The evidence on record places the accused at the scene and in company of the deceased. There is evidence of a quarrel over money. There is evidence of the accused producing a knife and the same knife being recovered from him while bloody. The post mortem report confirms death whose cause is consistent with eye witness and circumstantial accounts of the incident. On the whole, am satisfied that a prima facie case has been established to warrant the accused herein being placed on his defence. He is so placed.

DATED SIGNED AND DELIVERED THIS 11TH DAY OF JUNE, 2025.

A.K. NDUNG'U

JUDGE

