



REPUBLIC OF KENYA



**Republic v Leterewa (Criminal Case E006 of 2021)  
[2025] KEHC 10474 (KLR) (17 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10474 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MARALAL  
CRIMINAL CASE E006 OF 2021  
AK NDUNG'U, J  
JULY 17, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**SENTA LETEREWA ..... ACCUSED**

**RULING**

1. The accused, Senta Leterewa, is charged with Murder Contrary to Section 203 as read with Section 204 of the *Penal Code*. Particulars of the charge were that in the night of 24<sup>th</sup> and 25<sup>th</sup> August, 2021 at Yare Village in Samburu Central Sub-County within Samburu County, murdered Josphat Lekaasula.
2. In support of the charge, the prosecution called a total of 7 witnesses. The fact of death is confirmed by the medical officer, Robert Nato, through the Post Mortem report produced in court.
3. The evidence of PW1 is that he knew the accused. He stated that on 24/8/21 he went to the home of Yoki. He was with his brother Julius Lepalo. They took changaa at Yoki and 4 persons came. They were the accused, Septi Leterewa, Lemetek and Josephat Lekaasula. At some point, PW1 and his brother got broke and left for home. The next day they heard that Josephat was killed.
4. In cross-examination by PW1 stated that Septi Leterewa and Accused are not blood brothers but they were relatives. He did not witness any fight. PW1 stated that he did not know that Yoki and Lemetek were lovers.
5. In re-examination PW1 stated that the family of Leterewa and family of deceased are from different clans. Ntila Lementek is a man. Yoki is a woman.
6. PW2 testified that on 25/8/21 at 7.30 am the mother of deceased called him and reported that the deceased had died. He went and found deceased lying 100 metres from the house. He found elders and the chief came with the police. The body was taken to the mortuary. PW2 later identified the body



for post mortem where he observed a swelling on the deceased left side of the chest. The doctor also indicated that the deceased private parts were injured.

7. He confirmed on cross-examination that he found deceased already dead lying on the ground about 100 metres from the home. That the The deceased's home was near his home and he was not married. Further that he was living with the mother. He added that he never saw any cuts on the body. The body was naked. He saw an injury on the chest. He did not see the injury at private parts. The doctor said the same were injured. He saw no weapon and there was no axe.
8. PW3, Dr. Robert Nato, a medical officer, Samburu County Referral Hospital, performed the postmortem. The sex was male African about 20 years. Height was 1 metre 5 CM. The body was embalmed one week before postmortem. On external appearance, there was a large bruise on the anterior chest. There was swollen testicles with twisting of the penis. Internally, there was an anterior rib fracture with a bruising of the anterior aspect of the lungs wall. There was bruising of the left ventricular. The digestive system was normal. There was partial amputation of the penis shaft with swelling of both testicles. Head was normal. Other system were normal. There was a dislocation of the right shoulder. The doctor formed the opinion that the cause of death was due torsion and avulsive injury of the penis and testicles and fracture of the right shoulder due to blunt trauma.
9. He testified in cross-examination that there was no report by police about suspect. There was an anterior rib fracture and bruising of anterior lung and vertical. He attribute this to blunt trauma at the chest. Main cause of death was the injury at the male genitalia. The twisting involved trying to pull the genitalia forcefully. There was swelling of the penis and testicles where blood had lodged and it appeared like the attack was by an animal.
10. PW4 testified that he was involved in the arrest of the suspect who was found with the deceased's knife. It had a yellow sheath and a black and yellow handle. He identified the knife in court. He had seen his brother the deceased having the knife before. At arrest, the accused threatened them with the knife stating in Kiswahili "hata nyinyi nitawadunga". The accused was however arrested.
11. PW5 testified that on 24.8.21, at 10.00pm, the accused and deceased quarreled. They were all taking liquor. The accused and deceased went out after their quarrel. I followed them outside. The deceased had a knife and accused had a rungu. Lemetik left the house and asked PW5 to move away from between the accused and deceased. The accused attempted to stab the deceased. The accused hit the deceased with the rungu on the chest and behind on the back. The deceased left the scene. He left the accused at the scene. PW5 learnt the following day that the deceased had died.
12. In cross-examination he stated that he attempted to separate the two. He clarified that the deceased attempted to stab the Accused. Accused hit him with a rungu. The deceased left. He recorded a statement with the police. He stated that the deceased headed to his home which is nearby. He did not see the body of the deceased the following day. The next day PW5 went to drink and he learnt deceased had died. He was arrested with the accused as a suspect. The accused carried away a Maasai Chuka, knife and hat of the deceased. He saw the accused with the items about 11.00am the next day. He did not see the accused take away the things. He did not confirm that the deceased reached his home. If he had fallen there and then, they could have assisted him.
13. PW6's testimony was that on 24.8.21 he joined a group taking liquor and he continued drinking. The accused was there. The deceased was there. The deceased quarreled with the accused over liquor. They went outside. The accused hit the deceased on the chest and on the back. The deceased had a knife. He did not produce the knife. He did not raise it threatening to stab the accused. PW6 left the 2 at the scene.



14. In cross-examination, PW6 stated that he was held as a suspect. He did not disappear the next day. He came to Maralal town. He was arrested by the police at Chang'aa Estate. He had not made any report to the police about the incident. He had taken the incident as a normal one. He got information of the death of deceased from PW5. He went on with activities. The next day, he saw the accused with the shuka, knife and hat of deceased at Yare Estate before he was arrested. He had seen the items the previous day. He knew the deceased before. He did not question the accused about the items.
15. He added that deceased owned the phone. It was with the deceased with the other items. He saw the phone in the trouser pocket. The accused removed it from the pocket and he saw it. He did not intervene to separate the accused and the deceased. He followed them outside and he saw the accused hit the deceased. He just left and went home.
16. On his part, PW7, CPL Stephen Ndongu, recalled that on 25/8/21 at 7.30am they received information that there was a dead body at a grazing field at Maralal town. They rushed to the scene with CI Muiyo, CI Musyoki and PC Otieno. They found the body of a male adult of one Josephat Lekaasula. He processed the scene. Photographs were taken. Body had no physical injuries. They took body to Samburu Referral hospital. After investigation they got information that deceased was last seen the previous night together with the Accused, Ntile Lemeteki and Senti Leterewa while taking brew in the house of Yoki Leagupa. A quarrel arose between Senti Leterewa and deceased over brew which was changaa. The accused took the Samburu rungu and hit the deceased severally on the chest. The deceased tried to run away but fell down when headed home. On seeing this, his friends disappeared together with owner of the house. They managed to arrest the 3 friends minus the suspect who narrated to them the going ons on the previous day. On the same day in the afternoon, they got information that the suspect was within Cereal Board area. They rushed there and arrested him. They recovered a Samburu Shuka which belonged to the deceased and a Samburu sword also belonging to the deceased. The Shuka was red yellow and black. On 30.8.21 a post mortem was conducted on the body of the deceased and the cause of death was determined to be due to injury to the deceased's private parts and fracture and dislocation of right shoulder. They recovered a maasai sword from the accused, a pair of scissors and a maasai Shuka.
17. In cross-examination PW7 confirmed he got information from members of public about a body. That he was not there with the 3 persons who had been with the deceased the previous night. He added that the 3 individuals were arrested as they had not come forward to give the information.
18. He added that a close friend of the deceased and who was not a witness in this matter identified the items belonging to the deceased. Further that he treated some suspects as witnesses. The witness added that he established that deceased was attacked by the accused after a quarrel. He got information that it is deceased who wanted to stab the accused with a knife. I would be surprised to hear that accused acted in self-defence. Further that the deceased died as a result of the penile injury and fractured right hand shoulder. The main cause according to the doctor was penile injury. He added that he was not aware that the attack on genitalia was from an animal.
19. In their submissions, the prosecution through learned Counsel Mr.Mwongera flagged 4 issues for determination viz;
  - a. Was the accused involved in the murder of the deceased?
  - b. Did the accused have malice?
  - c. Was the accused identified appropriately?
  - d. Was the cause of death as a result of the injuries inflicted?



20. Reliance was placed on the decision in Mombasa High Court Case Number 42 of 2009 between Republic v Daniel Musyoka Muasya, Paul Mutua Musya and Walter Otieno Ojwang and the [\*Republic v Mohammed Dadi Kokane & 7 Others\*](#) 120141 eKLR .
21. Counsel submits that the prosecution witnesses placed the Accused at the scene of the crime and they saw the Accused assault the deceased using a Samburu rungu. Further that malice was demonstrated by the intentional assault of the deceased by the Accused.
22. It is submitted that the evidence of PW5 and PW6 clearly placed the accused person at the scene of crime. The 2 witnesses clearly saw the accused assault the deceased with a Samburu rungu. The accused intentionally and unlawfully inflicted injury of the deceased, when he refused to give him chang'aa which he didn't contribute to purchase. It's evident that the accused had malice aforethought because he intentionally caused injury to the deceased by assaulting him with a Samburu rungu. It is urged that the first limb suffices in this case.
23. On identification, the evidence of PW5 and PW6 is again relied on to show that the Accused was at Yoki's house and further that the Accused was found with items belonging to the deceased.
24. On the cause of death, it is submitted that PW3 (Dr. Nato) testified that the deceased's cause of death was due to torsion and avulsion injury of the penis and testicles and fracture dislocation of the right shoulder due to blunt force trauma.
25. Mr. Mbugua, the defence counsel, submitted that the Court must be guided by specific legal dictates in making its determination on whether or not to place the accused person on his defence. Of relevance is the principles applicable in proof of charges, namely, burden and standard of proof and whether the same have been effectively been discharged by the prosecution on a prima facie scale.
26. Counsel submits that to attract criminal culpability in every offence - with the exception of strict liability offences - the element of mens rea or guilty mind must be established. The criminal knowledge, criminal intention, criminal disposition and/or criminal appreciation to be imputed on the Defendant and/or proven by the Prosecution is none other than malice aforethought as has been underlined/ prescribed in the words creating the offence of murder under Section 203 of the [\*Penal Code\*](#) and specifically defined under Section 206 of the same act.
27. Counsel faults the submissions by the Prosecution counsel stating that while the counsel in his submission dated 30<sup>th</sup> May 2025 has rightly pointed out the legal architecture applicable in proofs of the offence at hand with regard to the ingredients of the Offence at hand, he has nonetheless reached erroneous conclusions based on a misapplication/misrepresentation of the facts/evidence against the legal principles.
28. Counsel urges that had the state counsel properly analyzed the evidence, it should have led to an irrefutable conclusion that the Defendant never caused the act that led to the death of the deceased, (the actus reus) or intended, with malice aforethought or guilty intention, the death of the deceased.
29. Reliance was placed on the case of [\*Joseph Kimani Njau Vs Republic\*](#) (Nyeri Court of Appeal Criminal Appeal No. 375 of 2011) [2014] eKLR. where the accused person was acquitted on a charge of murder because the prosecution failed to prove murder.
30. Analyzing the evidence, counsel picks out material contradictions that presented themselves during trial. Without any cogent explanation as to the presence of severely contradictory evidence, the prosecution has failed to satisfy the legal requirements as would justify placing the Defendant on his defence.



31. Counsel poses and answers the following questions;
  - 1) Did the Accused person of malice aforethought cause the death of the deceased.  
To answer this query, one needs to interrogate a number of sub-issues, namely: -
    - a. What were the circumstances leading to the assault and subsequent demise of the deceased?
    - b. Did the assault actually cause the death of the deceased?
32. On Sub issue (a) (What were the circumstances leading to the assault and subsequent demise of the deceased) it is submitted that the key prosecution witnesses, (PW 5, Septi Leterewa & PW 6, Ntiira Lemeteki) are stated to have corroborated each other's testimonies.
33. Counsel takes a divergent view in that, on the one hand, PW 5 narrated an ordeal which saw the Accused stir a drunken brawl and retrieve his club (rungu) with which he struck the deceased on his chest before chasing away everyone. On the other hand, PW 6 stated that it was the deceased who became irate and attempted to strike the Accused with his sword (njora) but the accused counter-struck using his rungungu.
34. It is urged that PW 5 talks of brawling inside Yoki's homestead while PW 6 talks of brawling outside Yoki's house. However, both witnesses were consistent that the Deceased retreated by walking away in the general direction of his home which was nearby. Queried during cross examination, the key witnesses stated that they saw no need to help out the deceased despite the strike to his body since he did not appear to have been severely hurt.
35. These two narratives, it is urged, fail to corroborate each other in a material respect. If the deceased was stable enough to walk away (or run), then the strike/strikes could not be considered as fatal. This is consistent with PW 6's evidence that the Accused was simply defending himself from a sword strike and having subdued the deceased, the Accused left room. This is not consistent with malice aforethought.
36. In regard to Sub issue (b) (Did the assault actually cause the death of the deceased?), it is submitted that PW 3, Dr. Robert Nato, clarified in cross examination that the the penile and testicle injuries were not caused by a human. The injuries were consistent with an animal attack. According to him the primary cause of death was the injuries to the penis and testicles.
37. Counsel submits that this witness introduces a very crucial component to the trial, namely the actus reus. The evidence of PW 3 is compelling and empirical. It is based on the expert opinion of Pathologist Kuria. The strike to the chest was ruled out as the primary cause of death.
38. Counsel surmises that all the circumstances, the facts and the evidence may only lead to one conclusion, that no case has been made out as would call for any further consideration. The Court is invited to collapse this case at this stage by making a finding of acquittal under Section 306 of the *Criminal Procedure Code Act* Cap. 75 Laws of Kenya.
39. I have had occasion to consider the charges, the evidence adduced, the learned submissions by respective counsel and the applicable law.
40. 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.
41. The term Prima facie is not defined under Section 306 of the *Criminal Procedure Code*.



42. In *Republic v Abdi Ibrahim* [2013] eKLR, a prima facie case was defined as follows:

“Prima facie” is a Latin word defined by Black’s Law Dictionary, 8<sup>th</sup> 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”.

43. In *Ramanlal Trambaklal Bhatt v R* [1957] EA 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.”

44. Similarly, in *Ronald Nyaga Kiura v 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 v 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.”

45. 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.

46. In establishing whether a prima facie case is established, the court cannot lose sight of applicable the principles in regard to the burden of proof in criminal matters. This is the only avenue through which the court can answer the question whether the evidence on record is sufficient enough to put the Accused on his defence putting into account that 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. (See *Ramanlal Bhat v Republic supra*).

47. A quick mention of the standard of proof in criminal cases becomes necessary as a useful compass in navigating the question whether the prosecution has laid out sufficient evidence upon which the court could convict if no evidence was given in rebuttal.
  48. It is a basic principle in criminal law that the prosecution may only obtain a criminal conviction only when the evidence proves the Accused's guilt beyond reasonable doubt. It is necessary that guilt should not only be rational inference but also it should be the only rational inference that could be drawn from the evidence. If there be any reasonable possibility consistent with innocence, the Accused must benefit therefrom and be acquitted.
  49. Of particular note is that the onus on the prosecution to prove the charge against the accused beyond reasonable doubt never shifts and there is no onus on the accused to prove his innocence. Indeed, Article Article 50(2)(a) of the [Constitution](#) speaks loudly to this.
  50. Sections 107 to 109 of *Evidence Act*, provide: -
    107. (1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist
    - (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.
  108. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.
  109. The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person. '
51. I associate myself with the legal sentiments of Mativo J (as he then was) in *David Wahome Wanjohi v Republic* (Nyeri High Court Criminal Appeal No.4 of 2015) [2015] eKLR, where he stated;

“The legal burden proof in criminal cases never leaves the prosecution's backyard.

Viscount Sankey L.C in the Celebrated case of *Woolmington v DPP* in a subtle and mastery fashion stated the law on legal burden of proof in criminal matters, that: -

'throughout the web of the English Criminal Law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt subject to what I have already said as to the defence of the insanity and subject also to any statutory exception... No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained."
52. Within this background, it is this court's duty to weigh the evidence adduced and determine if a prima facie case is established to warrant the Accused person being placed on his defence.
53. In establishing whether the ingredients of murder have been proved to a standard warranting the placing of the Accused on his defence, this trial turns on the evidence of PW5 and PW6 as well as that of PW3, the Doctor who performed the post mortem examination.
54. For emphasis, the prosecution was to prove the following ingredients;



- 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.
55. The fact of death is clearly established by the evidence of PW3, the doctor. This fact is not contested going by the cross-examination of witnesses.
56. The prosecution having ably established evidence of death of the deceased, the next question is on proof of the cause of the said death. The evidence available is that of PW3 who produced a Post-Mortem form containing his finding that the cause of the death of the deceased was "Due to torsion and avulsive injury of the penis and testicles. Fracture Dislocation of the right shoulder due to blunt trauma."
57. Under cross-examination, the doctor stated that the main cause of death was the injury to the male genitalia and to him the attack appeared to have been an animal attack. The evidence on record is that The Accused hit the deceased with a rungu. Aligning this to the doctor's evidence which is categorical that the main cause of death was from what appeared as an animal attack, one cannot conclude with any degree of certainty that the act of the alleged hitting of the deceased with a rungu is consistent with the main cause of death.
58. Therefore, even assuming the Accused hit the deceased with a rungu, (and that fact and the circumstances surrounding it are contested as shall be seen later in this judgement), it has not been established that it is such striking that caused the death of the deceased.
59. Reviewing the evidence of PW5 and PW6, one finds discernable contradiction in the evidence of the two eye witnesses. The court's duty is to determine whether there were contradictions and inconsistencies in the prosecution evidence and if so whether the contradictions or inconsistencies (if any), are so material that they undermine proof of the charge of herein. The Uganda Court of Appeal in *Twebangane Alfred v Uganda*, Crim. App. No 139 of 2001, [2003] UGCA, 6. Stated;
- "With regard to contradictions in the prosecution's case the law as set out in numerous authorities is that grave contradictions unless satisfactorily explained will usually but not necessarily lead to the evidence of a witness being rejected. The court will ignore minor contradictions unless the court thinks that they point to deliberate untruthfulness or if they do not affect the main substance of the prosecution's case."
60. Thus, inconsistencies unless satisfactorily explained would usually but not necessarily result in the evidence of a witness being rejected. The question to be addressed is whether the contradictions are grave and point to deliberate untruthfulness or whether they affect the substance of the charge. The Court of Appeal of Nigeria in *David Ojeabuo v Federal Republic of Nigeria* stated (Adamu JA; Ngolika JA; Orji-Abadua JA; & Abiru JA.) clarifying what constitutes a contradiction stated;
- "Now, contradiction means lack of agreement between two related facts. Evidence contradicts another piece of evidence when it says the opposite of what the other piece of evidence has stated and not where there are mere discrepancies in details between them. Two pieces of evidence contradict one another when they are inconsistent on material facts while



a discrepancy occurs where a piece of evidence stops short of, or contains a little more than what the other piece of evidence says or contains."

61. In the instant matter, whereas PW5's evidence is that when an altercation arose between the deceased and the Accused the deceased attempted to stab the accused with a knife, PW6 states the complete opposite averring that the deceased never produced a knife. There is evident material contradiction between these eye witnesses on a piece of evidence that would have resolved the question whether the Accused hit the deceased with a rungu and in what circumstances. As it were the evidence on 'actus reus' is unreliable.
62. Lastly, even assuming that 'actus reus' was proved, I have pored through the evidence and am unable to find evidence showing that the Accused harboured the necessary 'mens rea' in the commission of the alleged offence. The facts as they emerge from the evidence are that an altercation between the deceased and the Accused arose in an illegal drinking den and there is no evidence of motive on the part of the accused to kill the deceased.
63. In *Joseph Kimani Njau vs Republic* (Nyeri Court of Appeal Criminal Appeal No. 375 of 2011) [2014] eKLR, the accused person was acquitted on a charge of murder because the prosecution failed to prove murder. Visram, Koome & Odek, JJA made the following observation at page 4: -

"12. In all criminal trials, both the actus reus and the mens rea are required for the offence charged; they must be proved by the prosecution beyond reasonable doubt. The trial court is under a duty to ensure that before any conviction is entered, both the actus reus and mens rea have been proved to the required standard. In the instant case, the trial court erred in failing to evaluate the evidence on record and to determine if the specific mens rea required for murder had been proved by the prosecution. "
64. The High Court, (Mativo J as he then was), had the opportunity to address the same issue in the case of *Philip Muiruri Ndaruga v Republic* [2016] eKLR where the learned judge expressed himself as follows;

"It is a cardinal principle of criminal jurisprudence that mens rea of the accused persons is very much essential ingredient to prove the guilty against the accused. Hence from the evidence on record, it is clear that the criminal intention to steal by clerk was not established.

Mens rea or criminal intent is the essential mental element considered in court proceedings to determine whether criminal guilt is present while actus reus functions as the essential physical element. These two elements. Latin terms for 'culpable mind' and 'culpable action' respectively, are required to establish the guilt of a defendant. The essence of criminal law has been said to lie in the maxim 'actus non facit reum nisi mens sit rea.' There can be no crime large or small without an evil mind. It is therefore a principle of our legal system, as probably it is every other, that the essence of an offence is the wrongful intent, without which the offence cannot exist".
65. The cumulative effect of the above analysis is that the prosecution's case is riddled with wide gaps. Placing the Accused on his defence would be tantamount to asking him to fill the said gaps. Noting that the evidence on record without a rebuttal cannot sustain a conviction and alive to the fact that in criminal cases, it is the duty of the prosecution to establish the guilt of an accused person to the required standard of proof beyond reasonable doubt and that an accused person is under no obligation to prove his innocence his duty being restricted to raising reasonable doubt on the prosecution's case, placing the Accused on his defence would negate these established principles of law.



66. With the result that I return a verdict of not guilty under Section 306 of the *Criminal Procedure Code* and acquit the accused of the charges herein.

**DATED SIGNED AND DELIVERED VIRTUALLY THIS 17<sup>TH</sup> DAY OF JULY 2025.**

**A.K. NDUNG’U**

**JUDGE**

