



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Odweyo (Criminal Case E026 of 2023)
[2025] KEHC 9273 (KLR) (1 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9273 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E026 OF 2023**

DK KEMEL, J

JULY 1, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL ODWEYO ACCUSED

RULING

1. The accused herein Samuel Odweyo has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence are that on 25th day of July 2023 at around 1930 hours in Ulanda Village of Kaugagi sub location, South West Alego Location in Siaya Sub County within Siaya County unlawfully killed Fredrick Onyango Wanyande.
2. The prosecution called a total of ten (10) witnesses in support of its case.
3. The prosecution's case is that on the material date, the deceased ventured onto the farm of the accused and collected dry maize stalks with which to feed the family's cows when the accused herein who is a neighbour spotted him ferrying the said items on his head and confronted him and later hit him with a huge club on the ribs. The deceased fell down at the scene and died. His body was later collected and taken to Siaya County Referral Hospital. An autopsy was later conducted by Dr. Eric Okongo (PW5) who formed the opinion that the cause of death was excessive hemorrhage secondary to spleen injury. He produced the report as Exhibit No.2. The scene was visited by No. 66783 Cpl Simon Likonyi (PW6) who was the scenes of crime officer and who took twelve photographs of the scene including the body of the deceased. Later, No. 47835 Sgt Otoro Osala (PW7) also visited the scene and managed to arrest the accused herein from his house and who was by then being attacked by members of public. The matter was investigated by No. 256775 Pc Langat Dominic (PW10) of DCI Siaya and who recovered one huge club which was the murder weapon and which he produced as Exhibit No.2 and later preferred the charge against the accused.



4. At the close of the prosecution's case, this court is called upon to establish whether the prosecution had established a prima facie case against the accused so as to warrant him 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 can convict an accused person if no evidence to the contrary is advanced by the defence. See *Bhatt Vs. R* [1957] EA 332. Hence, the evidence adduced so far must be sufficient to sustain a conviction against the accused were he to elect to remain silent in defence.
5. Upon analyzing the evidence of the witnesses lined up by the prosecution, I find that the evidence tendered squarely places the accused at the scene of crime. That being the position, I find that the accused must now offer an explanation as to how the deceased met his death.
6. In the result, it is my finding that the prosecution has made out a prima facie case against the accused to warrant him to be called upon to make a defence. Consequently, I find the accused herein Samuel Odweyo has a case to answer and is now called upon to elect to conduct his defence in accordance with the provisions of Section 306 (2) of the *Criminal Procedure Code*.

Dated and delivered this 1st day of July, 2025

D. KEMEI

JUDGE

In the presence of:

Samuel Odweyo.....Accused

M/s Akinyi.....for Accused

M/s Kerubo.....for Prosecution

Okumu.....Court Assistant

