



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Karume (Criminal Case 19 of 2019)
[2025] KEHC 12886 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12886 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NANYUKI
CRIMINAL CASE 19 OF 2019
AK NDUNG’U, J
SEPTEMBER 19, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

RICHARD MITHIKA KARUME ACCUSED

RULING

1. The Accused, Richard Mithika Karume was charged with Murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars were that on the 28th day of June, 2018, at Kibunja Market, Kaburaini Location in Kieni East Sub-County within Nyeri County murdered Stephen Kingangi.
2. In support of the charge the prosecution called the prosecution called a total of 13 witnesses. In this ruling, the court is being called upon to decide whether or not the prosecution has made out a prima facie case against the accused that would warrant this court to call upon him to give his defence.
3. I have considered the evidence so far from the prosecution’s side, the submissions by the prosecution and the authorities cited. As stated above, the issue before me at this stage is whether the evidence so far adduced warrants calling upon the accused to defend himself. In other words, does the accused have a case to answer? In Republic vs. Abdi Ibrahim Owl [2013] eKLR 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”. To digest this further, in simple terms, it means the establishment of a rebuttal presumption that an accused person is guilty of the offence he/she is charged with.



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.”

4. The key question that calls for an answer is whether, based on the evidence adduced by the prosecution, the court after properly directing its mind to the law and the evidence may convict if the accused chose to give no evidence. It was held in *Ronald Nyaga Kiura vs. Republic* [2018] eKLR that;

“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 a 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.”

5. It therefore follows that a case to answer ought only to be found where the prosecution’s case, on its own, may possibly, though not necessarily, succeed. Having considered the material placed before the court, it is my view that evidence that is largely circumstantial linking the Accused to the offence of the Murder of the victim in this matter abounds sufficient to warrant the Accused being placed on his defence. Accordingly, the Accused is placed on his defence.

DATED SIGNED AND DELIVERED VIRTUALLY THIS 19TH DAY OF SEPTEMBER, 2025.

A.K. NDUNG’U

JUDGE

