



**Republic v Mwololo (Criminal Case E022 of 2024)  
[2025] KEHC 12934 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12934 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MAKUENI  
CRIMINAL CASE E022 OF 2024  
TM MATHEKA, J  
SEPTEMBER 19, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**AMOS KATOLA MWOLOLO ..... ACCUSED**

**RULING**

1. In a murder case, at the close of the case for the prosecution the court is provided with two options under section 306 of the *Criminal Procedure Code* either to find that there is evidence the accused person committed the offence and place him on the defence or find that there is no evidence linking the accused to the offence, and make a finding of not guilty and set the accused person at liberty.
2. Amos Katola Mwololo is charged with murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the charge are that on the 9th day of August 2024, at Enzai Market within Makueni County, he murdered one James Musyoka Mutula.
3. The accused person took plea on 26<sup>th</sup> August 2024 and pleaded not guilty to the charge.
4. The prosecution called 6 witnesses to prove the alleged offence against the accused person. These were PW1 Onesmus Kioko Mutua who together with the accused and the deceased took alcohol from around 5pm to 11pm in the pub run by PW3 Josephine Muthini John and her husband PW4 Onesmus Mulwa Mutisya, and left the three who were drunk together at the stage, PW2 who saw the accused and the deceased engaged in a fight on the same night as he walked home, PW5 Dr. Evelyn Kitungo who conducted postmortem and concluded that cause of death was severe Head injury Secondary to blunt for trauma, PW6 no. 87456 Cpl Charles Wanjau The investigating officer in the case.
5. Counsel for the accused person Miss Gitonga filed submissions in which she argues that the prosecution has failed to establish a prima facie case to warrant the accused person being put on the defence. She relies on *Ramanlal Trambaklal Bhatt v R* [1957] E.A 332, where the court held that



a prima facie case must be one upon which a reasonable tribunal, properly directing its mind, could convict if no other evidence is offered in rebuttal.

6. I have carefully considered the submissions by counsel in light of the evidence before me. The accused person was the last person to be seen with the deceased when he was alive. Hours later his body was found on the road not very far from where the witnesses had left or seen them.
7. I have not found any evidence of malice aforethought and reduce the charge to man slaughter c/s 202 as read with s. 205 of the Penal Code. The accused person will be put on the defence for manslaughter c/s 202 as read with s. 205 of the Penal Code, in accordance with s. 306(2) of the Criminal Procedure Code.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 19<sup>TH</sup> SEPTEMBER 2025**

**MUMBUA T MATHEKA**

**JUDGE**

CA Chrispol

Ms. Gitonga for the accused

Mr. Kazungu for state

Accused in open court

Defence Hearing on 13<sup>th</sup> November 2025

