



REPUBLIC OF KENYA



**Republic v Oduol alias Nicky & 4 others (Criminal Case E012 of 2024)
[2025] KEHC 12867 (KLR) (19 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12867 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E012 OF 2024
DK KEMEL, J
SEPTEMBER 19, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

NICHOLAS OMONDI ODUOL ALIAS NICKY 1ST ACCUSED

LEON OTIENO ODIPO 2ND ACCUSED

SAMUEL OWINO JUMA ALIAS OWISLY 3RD ACCUSED

KEVIN OCHIENG OMONDI 4TH ACCUSED

JOANES OCHIENG ONGAR 5TH ACCUSED

RULING

1. The accused herein Nicholas Omondi Oduol alias Nicky, Leon Otieno Odipo, Kevin Ochieng Omondi and Joanes Ochieng Ongar have 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 17/2/2024 at around 0045 hrs at Ngura village, Ojwando 'B' sublocation, Central Alego Location, Siaya Sub County within Siaya County jointly with others not before court murdered one Lawrence Otieno Otieno alias Ian.
2. The prosecution called a total of seven (7) witnesses in support of its case.
3. The prosecution's case is that on the material date, the deceased and his friend decided to visit a funeral disco dance and that after the dance was over, they decided to go to their homes only to be waylaid by a group of young men who included the accused persons heren who attacked them. That the deceased's colleague managed to escape but the deceased was not so lucky as he was killed and his body left at the scene. The deceased's colleague alerted the parents of the deceased and other neighbours to intervene. The clan elder was also alerted and that police visited the scene and collected the body. An autopsy was



conducted by Dr Okongo Eric (PW2) of Siaya County Referral Hospital who formed the opinion that the cause of death was cardiorespiratory failure secondary to massive hemothorax on the left side. The villagers being led by Joseph Ouma Oliech alias Atoti (PW1) who claimed to have been in the company of the deceased at the time of the attack led them to the homes of 1st, 2nd and 3rd accused persons who were flushed out and apprehended and handed over to the police. The other two accused persons were later flushed out by irate members of public who handed them to the investigating officer No. 225693 Cpl Pius Tanui (PW7) and who later charged the five accused herein with the present offence.

4. At the close of the prosecution's case, learned counsels for the parties opted not to tender submissions on a case to answer and relied on the evidence already presented.
5. At this stage of the proceedings, the prosecution is under a duty to establish a prima facie case against the accused person so as to warrant him make a defence. A prima facie case is one in which a reasonable tribunal directing its mind to the law and evidence can convict an accused if no evidence is tendered by the defence to the contrary. What this means is that the evidence that has been presented should be sufficient to sustain a conviction against the accused person were he to elect to remain silent in defence. See *Bhatt Vs. Republic* (1957) EA 332.
6. As noted from the evidence as presented by the prosecution, the evidence of Joseph Ouma Oliech alias Atoti (PW1) who was in the company of the deceased at the time of the incident clearly placed the accused persons at the scene of crime. Consequently, I find that the accused persons herein must now offer an explanation as to how the deceased met his death.
7. In view of the foregoing observations, it is my finding that the prosecution has established a prima facie case against all the accused persons herein to warrant them to be called upon to make a defence. Consequently, I find Nicholas Omondi Oduol alias Nicky, Leon Otieno Odipo, Samuel Owino Ouma alias Owisly, Kevin Ochieng Omondi and Joanes Ochieng Ongar have a case to answer. They are now called upon to elect to conduct their defence in accordance with the provisions of Section 306 (2) of the Criminal Procedure Code.

DATED AND DELIVERED AT SIAYA THIS 19TH DAY OF SEPTEMBER 2025.

D. KEMEI

JUDGE

In the presence of:

N/A.....watching brief for family of victim

M/s Mumu.....for prosecution

Okumu.....Court Assistant

