



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Ngeno & another (Criminal Case E011 of 2024)  
[2025] KEHC 12964 (KLR) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12964 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERICHO  
CRIMINAL CASE E011 OF 2024  
JK SERGON, J  
SEPTEMBER 18, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**NICHOLAS KIBET NGENO ..... 1<sup>ST</sup> ACCUSED**

**NICHOLAS KIPKEMOI RONO ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. Nicholas Kibet Ngeno and Nicholas Kipkemoi Rono the Accused herein were charged with the information of Murder Contrary to Section 203 as read with 204 of the *Penal Code*. Particulars of the information are that on the 3rd day of April, 2024 at Tendwet Sub Location in Kapsaos Location, Kericho East Sub County within Kericho County, jointly murdered Cosmas Kiptoo Langat.
2. The accused persons took a plea and pleaded not guilty to the charge of murder. The prosecution called eight (8) witnesses who testified in support of its case against the accused herein. The prosecution closed its case.
3. The Learned Counsel for the accused submitted that the prosecution case was marred with inconsistencies and hearsay evidence. It was therefore his case that the prosecution had failed to establish a prima facie case.
4. The Learned Senior Assistant Director of Public Prosecution was adamant that the prosecution had established a prima facie case against the accused beyond reasonable doubt.
5. This court has considered the prosecution's case at length.
6. PW. 1 narrated that on the material day, he and the deceased had left a nearby changaa den when they were accosted by the accused who were well known to him, he fled and informed the wife of the



deceased that they had been accosted by the accused. He further testified that on the following day, the deceased's body was recovered about 100 meters away from where the altercation took place.

7. PW. 2 wife to the deceased testified that at around 8PM on the material day PW. 1 came to her homestead and informed that he and the deceased were attacked by the accused. She further testified that they tried to trace the deceased that night but their efforts were thwarted by heavy rains and that the body of the deceased was recovered at a nearby bush on the following day. She testified that Nicholas Kibet, 1st accused and her husband had an acrimonious relationship, as he had been arrested and charged with defilement of a minor and that her husband was a witness in the court case. She further testified that he had torched her house and that during the awful incident she had sustained some burns.
8. Pw. 3 and Pw. 6 cousins to the deceased, testified that they received information that the deceased had been murdered, identified the body of the deceased at the mortuary and attended the autopsy of the deceased.
9. Pw. 4 the assistant chief Tendwet Sub Location testified that on the material day, he received a report that the accused had attacked Pw. 1 and the deceased. He narrated that the following day, the body of the deceased was recovered and that he accompanied law enforcement officers to the crime scene, the body was taken to the morgue for preservation and the accused went into hiding, however, they were apprehended at a later day. He testified that the deceased was a witness in Sexual Offence Case No. E091 of 2023 *R v Nicholas Kibet Ngeno* at Molo Law Courts.
10. PW. 5 a medical officer testified that he conducted an autopsy on the deceased and formed the opinion that the cause of death was severe head injury and haemorrhage and produced the post mortem report.
11. PW. 7 the I/O testified that as part of his investigation he went to the crime scene where the body of the deceased was recovered and that the suspects were apprehended in connection to the instant offence. On cross examination, he confirmed that they did not recover the murder weapon.
12. Pw. 8 the crime scene officer testified that he documented the crime scene by taking several photographs which he processed and certified and produced in court.
13. Having considered the testimonies of the prosecution witnesses, the question is whether the evidence tendered establishes a prima facie case against the accused or whether the accused has a case to answer. In *Republic v Abdi Ibrahim Owi* [2013] eKLR, the court defined a prima facie case as follows: "Prima facie' is a Latin word defined by *Black's Law Dictionary* 8th Edition as, "sufficient to establish a fact or raise presumption unless disapproved or rebutted". 'Prima facie' is defined by the same dictionary as "the establishment of a legally required rebuttable presumption." whereas in *Ronald Nyaga Kiura v Republic*, the court held: " It is important to note that at the close of the Prosecution, what is required in law at this stage is for the trial court to satisfy itself that a prima facie case 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*..."
14. Having considered the material placed before me, I am satisfied that the prosecution has established a prima facie case for the purposes of a finding that the accused have a case to answer.
15. I accordingly place the accused persons on their defence, section 211 of the *Criminal Procedure Code* cap 75 Laws of Kenya to be complied with.

**DATED, SIGNED AND DELIVERED AT KERICHO THIS 18TH DAY OF SEPTEMBER, 2025.**

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**J. K. SERGON**

**JUDGE**

In the presence of:

C/Assistant – Rutoh

Prosecutor – Ogutu

Accused – Present in Person

Munga for the Accused

