



**Republic v Asigo (Criminal Case E028 of 2024)  
[2025] KEHC 14430 (KLR) (14 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14430 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL CASE E028 OF 2024**

**DK KEMEL, J**

**OCTOBER 14, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**GEORGE OTIENO ASIGO ..... ACCUSED**

**RULING**

1. The accused herein George Otieno Asigo has been charged with two counts of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the first count are that on the 3/5/2024 at Nyangoma Sub-Location Central Sakwa Location, Bondo Sub County within Siaya County, jointly with another not before court murdered Victoria Akinyi.
2. The particulars of the second count are that on the 3/5/2024 at Nyangoma Sub-Location Central Sakwa Location, Bondo Sub County within Siaya County, jointly with another not before court murdered Trevor Otieno Ouko.
3. The prosecution called a total of nine (9) witnesses in support of its case.
4. The prosecution’s case is that on the material date at around 9.00 pm the first victim (Victoria Akinyi) was taking super with her two children namely Harriet Achieng and Trevor Otieno Ouko when the accused herein who is her husband and father of the children arrived and picked a panga from the sitting room and then went straight to the bedroom and was followed by Victoria Akinyi only for the accused to cut the first victim after quarrelling and also cut the second victim (Trevor). That the accused had been accompanied by another person who remained outside briefly and who entered the house and cut one of the children namely Harriet (PW1). A relative of the first victim who was based in Nairobi (PW2) received the report of the incident and that he rushed to the scene and later Bondo Sub County Hospital where he saw the bodies of the victim and also visited one of the children (PW1) who had sustained head injuries and who was recuperating in hospital. The bodies of the two victims were later



subjected to an autopsy by Dr. Daniel Otieno (PW3) who formed the opinion that the cause of death of the first victim Victoria Akinyi was severe head injury and acute subdural hematoma while the cause of death of the second victim Trevor Otieno Ouko was decapitation secondary to assault with a sharp object. The scene was visited by No. 66783 Cpl Simon Likonyi (PW4) who secured the scene and took several photographs and later prepared a certificate of photographic evidence which he produced in court as exhibit 6, 7 and 8. The girl who survived the death by a whisker (PW1) was later examined by Stephen Okumu Okwiri (PW5) who is a clinical officer based at Bondo Sub County Hospital and who produced the treatment notes and P3 forms as exhibits 9 and 10 and further formed the opinion that the degree of injury occasioned to her was grievous harm. One of the relatives of the victims and the accused namely Don Bosco Onyango Aringo (PW6) was called during the incident by the father to the accused to rush home as an incident had taken place and that on arrival he found the daughter of both accused and the first victim already injured on the head and that he rushed her to Uyawi Sub County Hospital for treatment before she was referred to Siaya County Referral Hospital. That he went back home and learnt that another victim had died and that the father to the accused claimed that the victim had been injured by his mother. That he called the police officer at Kopolo police post who rushed to the scene but by that time, the first victim was nowhere to be seen. That later the body of the first victim who is the wife of the accused was recovered from the nearby gold mine pit. The exhibit which were recovered at the scene were later forwarded to the government chemist in Kisumu and were analyzed by Polycarp Lutta Kweyu (PW7) who came up with the conclusion inter alia; that the DNA profile generated from the panga ("C") was a mixed DNA profile of Victoria Akinyi and Trevor Otieno(deceased); that the DNA profile generated from the blood stains ("D"), jeans trouser ("I"), short ("B"), shirt("E"), T-shirt ("F") and bedsheet ("H") are identical and match the DNA profile of Victoria Akinyi (deceased); that the DNA profile generated from the nylon paper ("G") and plastic carpet ("A") are identical and belong to a single unknown female person. He produced the report as Exhibit – 11. No. 107257 Pc Lydia Adhiambo (PW8) based at Kopolo Police Station stated that on the material date she received the phone call from a member of public and that she accompanied other police officers to the scene being led by Don Bosco Onyango Aringo (PW6) and found that a maize plantation had been cut down and that there were household items strewn everywhere outside a certain house. That they entered the house, found the body of a young boy lying in a pool of blood with deep cuts at the back of the head and neck which was still fresh and who had already died. That items in the house were scattered all over. That the OCS Bondo and DCI officers arrived and collected the body and later arranged to transfer one of the girls who had been injured for treatment. No. 88050 Pc Ongaga Nyariaro (PW9) investigated the matter and stated that he visited the scene on the date of the incident and managed to collect the body of the young boy and also organized for the treatment of the injured girl. That he organized for the scene to be photographed and recovered various exhibits. That the following day they were informed that there was a body of one Victoria Akinyi who was a mother to the second victim was recovered from a Gold leeching tank about 30 metres from the house and that they rushed there and they found the body which had been retrieved by members of the public and which had injuries on the head and hands. That he collected the exhibits and the body and later organized for autopsies on the bodies. He also forwarded the exhibit to the government analyst for analysis. He later preferred the charges of murder against the accused herein. He also produced the recovered exhibits.

5. At the close of the prosecution's case, learned counsels for the parties made brief oral submissions on a case to answer. Mr. Soita for the prosecution urged the court to find that a prima facie case has been made pursuant to the evidence so far tendered. Mr. Otongo for the defence submitted that the prosecution have not established a prima facie case as they have not discharged the burden of proof and further failed to disprove the accused alibi defence. It was further submitted that the evidence of the



prosecution was weak since they relied on only one witness (PW1). Learned counsel urged the court to find that his client has no case to answer and who should be acquitted of the charges.

6. 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.
7. As noted from the evidence as presented by the prosecution, the evidence of Harriet Achieng (PW1) and Don Bosco Onyango Aringo (PW6) placed the accused at the scene of crime and hence, I find that the accused herein must now offer an explanation as to how the deceased persons who were members of his family met their deaths.
8. In view of the foregoing observations, it is my finding that the prosecution has established a prima facie case against the accused herein to warrant him to be called upon to make a defence. Consequently, I find that George Otieno Asigo a case to answer. He 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 AT SLAYA THIS 14<sup>TH</sup> DAY OF OCTOBER 2025.**

**D. KEMEI**

**JUDGE**

In the presence of:

George Otieno Asigo.....Accused

Odongo.....for Accused

Soita.....for Prosecution

Maureen.....Court Assistant.

