



**Republic v Onduso (Criminal Case E009 of 2023)
[2025] KEHC 14026 (KLR) (6 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14026 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E009 OF 2023
LN MUTENDE, J
OCTOBER 6, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

FELIX KERONGO ONDUSO ACCUSED

RULING

1. Felix Kerongo Onduso, the Accused, was arraigned following allegations of having murdered Bernard Waweru Kamawira (Deceased) in contravention of Section 203 as read with Section 204 of the Penal Code.
2. To be placed on his defence, at the close of the prosecution's case the State/Prosecution is expected to adduce evidence that is admissible and sufficient to prove the allegations even if the Accused were to opt to remain silent. Section 306(2) of the Criminal Procedure Code provides thus;

When the evidence of the witnesses for the prosecution has been concluded, the court, if it considers that there is evidence that the accused person or any one or more of several accused persons committed the offence, shall inform each such accused person of his right to address the court, either personally or by his advocate (if any), to give evidence on his own behalf, or to make an unsworn statement, and to call witnesses in his defence, and in all cases shall require him or his advocate (if any) to state whether it is intended to call any witnesses as to fact other than the accused person himself; and upon being informed thereof, the judge shall record the fact.

3. In compliance with the procedural law the prosecution presented evidence of fifteen (15) witnesses. The deceased went missing and his mortal remains were found in his house. The fact of death was confirmed by PW8 Dr. Wangare Wambugu, the pathologist who conducted the postmortem on the



body of the deceased and concluded that the cause of death was an incisional wound to the neck caused by a sharp force trauma following an assault.

4. Evidence as to the person responsible for the act that caused the death of the deceased was not direct therefore circumstantial in nature. Evidence tending to link the Accused with the offence was adduced by PW9 No. 99113 P.C, Paul Ochieng, an Arresting Officer who testified that upon arrest, the Accused was searched and found in possession of two (2) identity cards. One was his while the second one was for Bernard Waweru. An inventory of recovery was prepared and stated to have been thumb printed by him.
5. Further evidence was that of PW15 Robert Talala Kayapa, who testified to have made part payment for a cellphone offered for sale by the Accused which was later identified as that of the deceased. In the case of Ramanlal Trumbaklal Bhatt v Republic [1957] EA 332 it was held that;

“Prima facie case was defined as 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. At this stage, the court is not required to decide finally whether the evidence is worthy of credit or whether, if believed, it is weighty enough to prove the case conclusively,-that final determination can only properly be made when the case for the defence has been heard...”

6. Evidence adduced is sufficient to have the Accused placed on his defence pursuant to the provisions of Section 306 (2) of the Criminal Procedure Code which I hereby do.
7. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 6TH DAY OF OCTOBER, 2025.

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L.N. MUTENDE

