



**Republic v Oketch & another (Criminal Case E018 of 2023)
[2025] KEHC 15102 (KLR) (28 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 15102 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E018 OF 2023**

DK KEMEL, J

OCTOBER 28, 2025

BETWEEN

REPUBLIC PROSECUTION

AND

WILSON ONDOO OKETCH 1ST ACCUSED

STEPHEN OUMA OKETCH 2ND ACCUSED

RULING

1. The accused persons herein Wilson Ondoo Oketch and Stephen Ouma Oketch 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 25th day of June 2023 at Ulawe village Central Ugenya Location, within Ugunja Sub County in Siaya County jointly murdered Sylvester Ochieng Oketch.
2. The prosecution called a total of six witnesses in support of its case.
2. The prosecution’s case is that on the material date, the two accused persons had a disagreement with the deceased who was their brother and who later killed him. It transpired that the deceased was fighting with the first accused herein and were scuffling while the deceased held a panga. That the second accused tried to intervene by holding the waist of the deceased and then managed to seize the panga which was in possession with the deceased and proceeded to cut him once on the neck and then handed over the panga to the first accused to take the panga to his house but instead the said first accused cut the deceased again on the hand, back and the neck. The deceased then succumbed to the injuries. The police rushed to the scene and collected the murder weapon as well as picking the body of the deceased. The two accused were also arrested and placed in the cells. An autopsy was later conducted on the body on 6th of July 2023 by Dr. Kinja of Ambira Sub County Hospital who established multiple deep cuts on the body from the right eye extending to the neck and again from the right ear to the back of the head. That there were also injuries from the forearms to the knuckles. He formed the opinion that the



cause of death was excessive hemorrhage secondary to assault by a sharp object. The autopsy report was produced by Dr. Don Aluoch Othowa (PW6). Prior to arraignment of the two accused persons, they appeared before CIP Douglas Kirui on 8/7/2023 where they recorded confessions which were produced as Exhibit 2(a) and (b).

2. 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.
2. 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.
2. After analyzing the evidence of the prosecution's witnesses, it is clear that the evidence of PW1, PW2, PW3, PW4 placed the accused persons at the scene of crime. It is instructive that the two accused persons also volunteered to record confessions over the incident and which were produced as exhibits herein. That being the position, the accused persons herein must now render an explanation as to how the deceased met his death.
2. 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 them to be called upon to make a defence. Consequently, I find Wilson Ondoo Oketch and Stephen Ouma Oketch 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 28TH DAY OF OCTOBER 2025.

D. KEMEI

JUDGE

In the presence of:

Wilson Ondoo Oketch.....1st Accused

Stephen Ouma Oketch.....2nd Accused

Nyaberi for M/s Akinyi.....for Accused

Soita.....for Prosecution

Kimaiyo/Maureen.....Court Assistant

