



**Republic v Jilo alias Kassim Jillo (Criminal Case E009 of 2024)
[2025] KEHC 14884 (KLR) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14884 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE E009 OF 2024
JN ONYIEGO, J
OCTOBER 23, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

HASSAN ABUBAKAR JILO ALIAS KASSIM JILLO ACCUSED

RULING

1. The accused person herein is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on 15.09.2024, at Adele area Madogo location, Bangale Sub County, within Tana River County, he murdered Collins Muiga Gichohi.
2. Having denied the charge, the case proceeded to full trial with the prosecution adducing evidence from 10 witnesses in its endeavour to discharge the burden of proof beyond reasonable doubt. As such, at this stage, this court's role is to consider the evidence on record and make a determination as to whether the same presents a prima facie case that would warrant this court to call upon the accused person to give his defence pursuant to Section 306 of the CPC.
3. Under section 211 of the Criminal Procedure Code, a prima facie case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebuttal is offered by an accused person. [See Ramanlal Trambaklal Bhatt v R [1957] E.A 332 at 334 and 335].
4. Similar position was held in the case of Republic v Abdi Ibrahim Owl [2013]eKLR; Ronald Nyaga Kiura v Republic (2018) eKLR].
5. However, it is trite that, where the court is not acquitting the accused person at the close of prosecution's case, there is no need for a reasoned ruling for a case to answer. Reasons should only be



given where the submission of a no case to answer by the accused is upheld and the accused is to be acquitted. [See Festo Wandera Mukando v Republic [1980] KLR 103].

6. Therefore, at the close of the prosecution's case, it is the duty of the trial court to examine and assess the evidence tendered by the prosecution so as to establish whether the elements of a prima facie case are in existence and if so, the accused will be invited to give his defence either on oath or unsworn or he may even elect to exercise his constitutional right of keeping silent. In the event he is called upon to state his defence as provided under section 306 of the Criminal Procedure Code, besides adducing evidence from himself/herself, he/she can also call witnesses to rebut the prosecution's case.
7. In the instant case, circumstances under which the offence was allegedly committed as stated by PW1-PW10 revolve around a quarrel and a fight which ensued between the accused and the deceased. It is alleged that the deceased in company of another and while drunk, met the accused person talking with PW1 and at that point, demanded to know why the duo were standing on the road talking while it was already late. That fight ensued and allegedly, the accused person stabbed the deceased and that upon being rushed to the hospital, he was pronounced dead on arrival.
8. Thus a review of the prosecution evidence and confining myself to the live issues relevant to the making of the decision under section 306 of the Criminal Procedure Code, I am satisfied that a prima facie case has been established to place the accused person on his defence. He is consequently informed of his rights under section 211 of CPC.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 23RD DAY OF OCTOBER 2025

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J. N. ONYIEGO

JUDGE

