



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRC/E022/2024

REPUBLIC VS WILSON CHITAVI

RULING

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
CRIMINAL CASE NO. E022 OF 2024

REPUBLIC..... PROSECUTOR

-VERSUS-

WILSON PATANI CHITAVI..... ACCUSED PERSON

RULING

- 1. The accused person was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on the 30th day of August, 2024, at Kolewa Village, Junju Location, in Kilifi South Sub-County, he murdered MWAKA CHITAVI MWACHIZI.
2. The accused was arraigned in court where the information was read out to him, and he pleaded not guilty.
3. The trial commenced on the 26th of November, 2024, during which the prosecution called a total of six (6) witnesses in support of its case.

Analysis and Determination

- 1. From the evidence on record, it is apparent that the accused person was seen attacking the deceased.
2. I have carefully considered the evidence adduced by the prosecution. The issue before this court at this stage is whether the evidence so far presented warrants calling upon the accused



to defend himself — in other words, whether the accused has a case to answer.

In **Republic v Abdi Ibrahim Owl [2013] eKLR**, a prima facie case was defined as follows:

“Prima facie” is a Latin term defined by Black’s Law Dictionary, 8th Edition, as “sufficient to establish a fact or raise a presumption unless disproved or rebutted.” “Prima facie case” is defined as “the establishment of a legally required rebuttable presumption.”

In simple terms, it refers to the establishment of a rebuttable presumption that an accused person is guilty of the offence charged, unless the contrary is proved.

1. It is noteworthy that a prima facie case does not necessarily mean a case that must ultimately succeed. The finding merely implies that the prosecution has produced sufficient evidence which, if left uncontroverted, could sustain a conviction. The final determination of guilt still requires proof beyond reasonable doubt, a higher standard that will be assessed at the conclusion of the entire trial.
2. This Court is also mindful of the caution expressed in **Festo Wandera Mukando v Republic [1980] KLR 103**, where Trevelyan and Chesoni, JJ stated:

“...we once more draw attention to the inadvisability of giving reasons for holding that an accused has a case to answer. It can prove embarrassing to the Court and, in an extreme case, may require an appellate Court to set aside an otherwise sound judgment. Where a submission of ‘no case’ is rejected, the Court should say no more than that it is. It is otherwise where the submission is upheld, when reasons should be given; for then that is the end of the case or the count or counts concerned.”

1. Consequently, the question before this Court is whether, based on the evidence adduced so far, a reasonable tribunal properly directing itself to the law and the evidence could convict the accused if he elected to remain silent.
2. Having carefully evaluated the evidence presented, and without delving into detailed findings at this stage, I am satisfied that the prosecution has established a prima facie case sufficient to require the accused to be placed on his defence.
3. Accordingly, I find that the accused person **has a case to answer** and is hereby **placed on his defence** pursuant to Section 306(2) of the Criminal Procedure Code. His rights under Article 50(2)(i), (k), and (l) of the Constitution shall be explained to him in a language he understands, in the presence of his legal counsel.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 13th DAY OF NOVEMBER, 2025.**

**W.K. MICHENI**  
**JUDGE**

**IN THE PRESENCE OF:**

The Accused Person **Present**

For the Prosecution: **Mr. Ngiri**

Court Assistant: **Ms. Bebora**

**Advocate: Absent**



SIGNED BY/FOR:  
HON. LADY JUSTICE WENDY MICHENI



THE JUDICIARY OF KENYA.  
MOMBASA HIGH COURT  
HIGH COURT CRIMINAL  
DATE: 2025-11-13 11:35:35

