



**Republic v Odenyo (Criminal Case E054 of 2024)
[2025] KEHC 16157 (KLR) (10 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16157 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E054 OF 2024
DK KEMEL, J
NOVEMBER 10, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

EVANS OTIENO ODENYO ACCUSED

RULING

1. The accused herein Evans Otieno Odenyo faces a charge of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on 11th day of December 2024 at Onono Village in Nyabeda Sub -Location in Gem Sub-County within Siaya County murdered Michael Owino Alumba.
2. The prosecution’s case is that on the material date, the accused herein met the deceased who was then in company of his brother (PW2) and that he requested the deceased to visit his home as he wanted to give him some ovacado fruits. That the deceased later went to the home of the accused herein as directed but however he did not return home. Frantic efforts were made to trace him as the accused denied the deceased’s whereabouts. That later, the body of the deceased was found while stashed in a sack and dumped inside a thicket near the accused’s farm. It was also established that some bicycle wheel marks led from the house of the accused to where the body had been dumped. The area clan elder and police were alerted and that the scene was visited by police officers led by the arresting officer (PW5) and the investigating officer (PW7) who collected the body. An autopsy was later conducted on the body by Dr. Victor Ochieng (PW6) who formed the opinion that the cause of death was brain hypoxic injury secondary to cardiopulmonary failure secondary to asphyxiation due to assault. After investigations, PW7 charged the accused with the present offence.
3. At this stage of the proceedings, the prosecution is under a duty to establish a prima facie case against the accused so as to warrant him to be called upon to make a defence. A prima facie case is one in which a reasonable tribunal directing its mind to the law and evidence placed before it could convict an



accused in the absence of any evidence to the contrary. See BHATT VS R, [1957] EA 334. Hence, the evidence which has been tendered so far should be sufficient to sustain a conviction against the accused were he to elect to remain silent in defence.

4. Upon analyzing the evidence of PW2, PW3, PW4 and PW5, I am satisfied that the same clearly placed the accused at the scene of crime to require him to be called upon to make a defence and render an explanation as to how the deceased met his death.
5. In the result, it is my finding that the prosecution has established a prima facie case against the accused herein Evans Otieno Odenyo to warrant him to make a defence. Consequently, I find that he has a case to answer and 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 SIAYA THIS 10TH DAY OF NOVEMBER 2025.

D. KEMEI

JUDGE.

In the presence of

Evans Otieno Odenyo.....Accused.

Odhiambo.....for Accused.

M/s Kerubo.....for Prosecution.

Kimaiyo/Maureen.....Court Assistant.

