



**Republic v Mwalimu (Criminal Case E018 of 2025)
[2025] KEHC 15668 (KLR) (4 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 15668 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MAKADARA
CRIMINAL CASE E018 OF 2025
J WAKIAGA, J
NOVEMBER 4, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

CALEB WAMBUA MWALIMU ACCUSED

RULING

1. The accused was charged with the offence of murder contrary to section 203 as read with section 204 of the penal code, the particulars of which were that on the night of 1st and 2nd March 2025 at around 0100 hours at Pipeline within Embakasi Sub-County within Nairobi County murdered Ramadhan Shaban.
2. He pleaded not guilty and to prove its case against him the prosecution called and examined a total of eight witnesses and at the end of the prosecution case, they filed written submission on no case to answer which were highlighted by Ms Ogweno while the accused through his Advocate on record Mr. Ndungu made oral submissions.
3. It was submitted that in support of the case PW1 Hadija Abdalla Yussuf a girlfriend of the accused testified that she had cohabited with the accused for a period of three years and that on the material day after a disagreement with the accused, she sent the deceased to the house to reinforce the door with an additional padlock so as to prevent the accused from accessing the house and that when the same took long to come back, she called him on phone and heard him calling the accused for a fight and later heard him asking to be taken to the hospital.
4. When she went to the scene together with PW2, they saw the accused running away through the buildings and found the deceased bleeding. He was taken to the hospital from where he ;later died. It was therefore submitted that the death was caused by the accused who was positively identified having



been mentioned by the deceased in his dying declaration. It was contended that the accused had the intention of causing either death and or grievous harm.

5. On behalf of the accused it was submitted that prima facie case was not established as none of the prosecution witnesses saw the object that was used on the victim and none of them saw the accused inflict the injuries. It was contended that the investigations were inadequate as there was no evidence linking the accused to the offence.

Determination

6. At this stage of the trial all that the court ought to do is to establish whether a prima facie case has been made by the prosecution to enable the court call upon the accused to offer some explanation.
7. What constitute prime facie case was stated in the celebrated case of Ramanlal Trambaklal Bhatt v. R [1957] E. A 332 at 334 and 335 defined a prima facie case as follows: It may not be easy to define what is meant by a “prima facie case”, but at least it must mean 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.
8. The courts are advised not to make detailed comments on the evidence adduced at this stage of the trial should the court decide to put the accused on his defence as that might compromise the defence the accused is likely to offer.
9. In this matter the accused was placed together with the deceased by both PW1 and PW2 and PW3 and PW5 both who witnessed the fight between the accused and the deceased and without saying too much on the said evidence at this stage, I am satisfied that the prosecution has made up a prima facie case to enable the court put the accused on his defence which I hereby do.

The accused is therefore advised of his constitutional right under Article 50 of *the Constitution* and statutory rights to defend himself and is therefore called upon through the wise counsel of his Advocate to select how he wishes to defend himself.

10. And it is ordered.

SIGNED DATED AND DELIVERED THIS 4th DAY OF NOVEMBER 2025

J. WAKIAGA

JUDGE

In the presence of

