



**Republic v Silima alias 'Kajim' (Criminal Case E026 of 2021)
[2025] KEHC 16043 (KLR) (Crim) (3 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16043 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE E026 OF 2021
AM MUTETI, J
NOVEMBER 3, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

JAMES KINUTHIA SILIMA ALIAS 'KAJIM' ACCUSED

RULING

1. The accused person is charged with Murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 Laws of Kenya. The particulars of offence are that James Kinuthia Silima Alias 'kajim' On 19th March, 2021 at Kasabuni Estate Area within Starehe Sub County in Nairobi County murdered Peter Ng'ang'a Nyambura.
2. The prosecution called a total of nine witnesses who tendered eye witness account of the circumstances under which the deceased died and medical evidence that established the cause of death of the deceased. The deceased certainly died as a result of the injuries he sustained following an assault.
3. The court is called upon at this stage of the proceedings to evaluate the evidence decide whether or not the prosecution has established a prima facie case against the accused persons requiring him to tender a defense.
4. A prima facie case is one that a reasonable tribunal properly directing its mind on the evidence may return a verdict of guilt if the evidence is not rebutted.
5. In Republic vs. Abdi Ibrahim Owl [2013] eKLR a prima facie case was defined as follows: -

“Prima facie” is a Latin word 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 by the same dictionary as “The establishment of a legally required rebuttable presumption”.

6. To digest this further, in simple terms, it means the establishment of a rebuttal presumption that an accused person is guilty of the offence he/she is charged with.
7. In *Ramanlal Trambaklal Bhatt v. R* [1957] E.A 332 at 334 and 335, the court stated as follows: “Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot agree that a prima facie case is made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.” This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather hopes the defence will fill the gaps in the prosecution case. Nor can we agree that the question whether there is a case to answer depends only on whether there is “some evidence, irrespective of its credibility or weight, sufficient to put the accused on his defence”. A mere scintilla of evidence can never be enough: nor can any amount of worthless discredited evidence...It is 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. This court has analyzed the entire evidence tendered by the prosecution and there is no doubt the evidence meets the threshold of a prima facie case. The accused person has been linked to the incident through direct evidence thus without delving into the crux of the evidence and in order to avoid prejudicing the accused person in his defense this court finds that there is sufficient cause to put the accused person to his defense to answer to the charge of murder.
9. Accordingly, the accused person is hereby placed to his defense in respect of the charge of murder preferred against him.
10. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 3RD DAY OF NOVEMBER 2025.

A. M. MUTETI

JUDGE

In the presence of:

Court Assistant: Habiba

Ms Njoroge for ODPP

Maina for Accused

Accused: Present

