



**State v Jagongo alias Yoyo (Criminal Case E032 of 2024)
[2025] KEHC 17447 (KLR) (28 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 17447 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E032 OF 2024
DK KEMEL, J
NOVEMBER 28, 2025**

BETWEEN

STATE PROSECUTION

AND

GEORGE MANYI JAGONGO ALIAS YOYO ACCUSED

RULING

1. The accused George Manyi Jagongo Alias Yoyo has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on the 29th day of June 2024 at Sirongo Beach of Nango Sub Location, Nyangoma Location, Bondo Sub-County within Siaya County murdered Ericson Oyombe Nyawake.
2. The prosecution called a total of six witnesses in support of its case.
3. The prosecution's case is that a business premise belonging to the accused herein was broken into and money stolen as well as chang'aa. That the accused confronted the deceased and a group of young men whom he accused of being behind the incident and later exchanged insults with the deceased. That the chairman of the Sirongo Beach Management Unit (PW3) advised the accused to lodge a report of the incident to the police. That the said witness (PW3) later learned that the accused had cut the deceased and that he rushed to the scene and found that the deceased had been rushed to the hospital. That he (PW3) was later arrested and placed in custody alongside the accused herein but was later released by the police and treated as a prosecution witness. One of the witnesses Charles Juma Otieno (PW4) stated that he joined the Beach Management Chairman (PW3) and visited the scene where the door to accused's business premises had been damaged and that he learnt from the accused that the deceased was one of the suspects. That the deceased was also there but was drunk but who kept on insulting the accused. That he later learned that a scuffle had ensued between the accused and the deceased in which the accused cut the deceased. The body of the deceased was collected and taken to Bondo Sub County Hospital where an autopsy was conducted by Dr. Juma Wanjovu (PW5) who noted a bruise within



the stomach and a large deep cut wound on the scalp. That there was a linear skull fracture on the front parietal area as well as intra cerebral hemorrhage. He formed the opinion that the cause of death was severe head injury with intra cerebral hemorrhage. After investigations, No. 246526 PC Sheldon Ndalo (PW6) charged the accused with the present offence.

4. At the close of the prosecution's case, learned counsel for the prosecution opted to rely on the evidence on record while learned counsel for the defence filed written submissions dated 11th November 2025.
5. I have considered the evidence presented by the prosecution at this stage of the proceedings as well as the submissions tendered by the defence. I find the issue for determination is whether the prosecution has made out a prima facie case against the accused.
6. At this stage of the proceedings, the prosecution is under a duty to establish a prima facie case against the accused persons so as to warrant him to make a defence. A prima facie case is one in which a reasonable tribunal directing its mind to the law and evidence can convict an accused if no evidence is tendered by the defence to the contrary. What this means is that the evidence that has been presented should be sufficient to sustain a conviction against the accused person were he to elect to remain silent in defence. See *Bhatt Vs. Republic* (1957) EA 332.
7. After analyzing the evidence of the prosecution's witnesses, it is clear that the evidence Pw3, PW4 and PW6 placed the accused at the scene of crime. The evidence of the investigating officer (PW6) is that upon arrival at the scene, they collected the body and relatives of the deceased were interrogated and who informed him that the accused was in contact with them and who wished to settle hospital bill as the accused was then unaware that the deceased had passed on. That he arrested the accused and that the accused led the police officers to a place where he claimed that the scuffle had taken place between him and the deceased and further claimed that he had thrown away the assault weapon into a thicket within Sirongo Beach. The said investigating officer stated on cross examination that the beach management officials of Sirongo Beach had claimed that the accused had alleged that the deceased had stolen his property. All these circumstances placed the accused at the scene of crime and therefore he must now offer an explanation as to how the deceased met his death.
8. In view of the foregoing observations, it is my finding that the prosecution has established a prima facie case against the accused herein to warrant him to be called upon to make a defence. Consequently, I find that the accused herein George Manyi Jagongo Alias Yoyo has a case to answer. He 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 28TH DAY OF NOVEMBER 2025.

D. KEMEI

JUDGE

In the presence of:

George Manyi Jagongo alias Yoyo.....Accused

M/s Madialo.....for Accused.

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

Maureen/Kimaiyo.....Court Assistant.

