



**Republic v Kinyua (Criminal Case E085 of 2024)  
[2026] KEHC 417 (KLR) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 417 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL CASE E085 OF 2024  
HM NYAGA, J  
JANUARY 22, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**AMOS KINYUA ..... ACCUSED**

**RULING**

1. The accused is charged with the offence of murder, contrary to section 203 as read section 204 of the Penal Code.
2. The Particulars of the offence were that on the 13<sup>th</sup> day of February 2024 at Nkaaria Village Kirimampiu Location, in Igembe South Sub-County within Meru County, jointly with another before court, he murdered Laban Mithika.
3. The accused pleaded not guilty to the charge. Thereafter the trial ensued and the prosecution called six (6) witnesses in support of its case.
4. None of the parties filed submissions on no case to answer.
5. At this stage the court's duty is to determine whether the prosecution has made out a prima facie case to require the accused to be put on his defence.
6. What then is a prima facie case? The test of this was settled in the case of Ramanlal T. Bhatt -v- Republic [1957] E.A. 332 where the court expressed itself 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.”

7. The court should therefore determine whether based on the evidence placed before it can convict if the accused chose not to give any evidence.
8. Without delving into the merits of the prosecution’s case it is my opinion that the prosecution has established a prima facie case to warrant the accused being put on the defence in terms of section 306 (2) of the Criminal Procedure Code.

**SIGNED, DATED AND DELIVERED AT MERU THIS 22<sup>ND</sup> DAY OF JANUARY, 2026.**

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**H. M. NYAGA**

**JUDGE**

