



**Republic v Kwavo (Criminal Case 35 of 2014)  
[2026] KEHC 465 (KLR) (27 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 465 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CRIMINAL CASE 35 OF 2014  
S MBUNGI, J  
JANUARY 27, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**MICKY SIMBO KWAVO ..... ACCUSED**

**RULING**

1. The Accused person, Micky Simbo Kwavo, is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code, Laws of Kenya.
2. The particulars of the charge are that on 30th June 2014, at Siuchi Village, Kochwa Sublocation, Navakholo Sub-County, within Kakamega County, the Accused person unlawfully caused the death of Manea Wafula Ndege.
3. The prosecution called six (6) witnesses in support of its case and thereafter closed its case.
4. Upon the close of the prosecution case, this Court is required, pursuant to section 306(1) of the Criminal Procedure Code, to determine whether the prosecution has established a prima facie case to warrant placing the Accused on his defence.
5. The applicable principles are settled In Bhatt v Republic [1957] EA 332, the Court held that a prima facie case is one on which a reasonable tribunal, properly directing itself to the law and the evidence, could convict if no explanation is offered by the defence.
6. At this stage, the Court is not required to make final findings on credibility or weigh the evidence exhaustively.



## **Analysis And Determination**

7. I have carefully considered the entirety of the prosecution evidence on record, including the exhibits produced.
8. PW1, the wife of the deceased, and PW2, the deceased's brother, testified that they were informed of the incident and upon arrival found the deceased bleeding. Their evidence establishes the fact of the incident and situates the Accused within the chain of events.
9. PW3, Thomas Ombecha Weteto, testified that on 2nd July 2014, he received a telephone call from an unknown person who turned out to be the Accused, his brother-in-law, stating that he was at a bus stop. PW3 picked the Accused and took him to his house before returning to work. Later that day, PW3 received information that the Accused had allegedly committed an offence. Upon questioning the Accused and receiving no explanation, and after being informed by his brother Mageya of what had transpired, PW3 decided to take the Accused to Ugunja Police Station, where the Accused was placed in custody and later transferred to the police station within the relevant jurisdiction.
10. PW4, Zephaniah Nyasika Munyasia, testified that on the evening of 30th June 2014 at about 7:00 p.m., he heard people singing songs traditionally sung during circumcision ceremonies. His son, who was among the circumcised boys, later informed him that they had been chased away by the deceased, who suspected they might steal his maize. PW4 cautioned his son not to return to that place. Shortly thereafter, PW4 heard someone say "I am dying." Upon going to check, he found the deceased lying on the ground. PW4 called his son to fetch his wife. The deceased informed them he had been stabbed and requested to be taken to hospital. PW4 stated that the deceased was his nephew. He further testified that the Accused was suspected because he was among the people earlier chased away by the deceased.
11. PW5, the investigating officer, testified that he was unable to recover the alleged murder weapon. He stated that some witnesses had alleged that the Accused was armed with a knife and had threatened to deal with the deceased. However, no weapon was produced.
12. PW6, Dr. Dickson Mchana, who conducted the post-mortem examination, testified that the cause of death was acute lung injury trauma following an assault. He stated that the injuries were consistent with the use of a blunt object, such as a piece of wood, and that there was no sharp force trauma. He further testified that injuries to the lungs and the brain were sufficient to cause death.
13. The medical evidence therefore confirms both the fact and cause of death, while the other witnesses place the Accused within the sequence of events surrounding the incident.
14. Any apparent inconsistencies regarding the exact nature of the weapon used or the precise sequence of events are matters that can only be conclusively resolved after the defence case is heard.
15. Without making final findings on credibility or weight of the evidence, I am satisfied that the prosecution has adduced evidence touching on all the essential elements of the offence of murder, which, if left unanswered, could lead to a conviction.

## **Determination**

16. In the premises, I find that the prosecution has established a prima facie case against the Accused person, Micky Simbo Kwavo, within the meaning of section 306(2) of the Criminal Procedure Code.
17. Defence hearing on 5.5.2026.
18. The Accused is accordingly placed on his defence.



19. Right of Appeal within 14 days explained.

**DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 27<sup>TH</sup> DAY OF JANUARY, 2026.**

**S.N MBUNGI**

**JUDGE**

In the Presence of:-

CA: Ang'onga/Nekesa

Accused, present.

