



**Republic v Lekulal alias Lemasi (Criminal Case E002 of 2022)
[2026] KEHC 328 (KLR) (21 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 328 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NANYUKI
CRIMINAL CASE E002 OF 2022
AK NDUNG’U, J
JANUARY 21, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

JOHN CHRISTOPHER LEKULAL ALIAS LEMASI ACCUSED

RULING

1. The Accused person, John Christopher Lekulal Alias Lemasi is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars were that on the night of 03/02/2022 at Ewaso shopping centre in Laikipia North Sub-county within Laikipia County jointly with others not before court murdered Gladys Kabari.
2. The accused person took plea on 10/05/2022 and he pleaded not guilty to the charge. The prosecution called a total of ten (10) witnesses. In this ruling, the court is being called upon to decide whether or not the prosecution has made out a prima facie case against the accused person that would warrant this court to call upon him to give his defence.
3. The prosecution’s counsel filed written submissions and argued that the ingredients of murder were proved beyond reasonable doubt since the evidence on record was produced by credible and reliable witnesses. Further, the circumstantial evidence met the threshold and linked the accused to the death of the deceased. That the evidence of PW1, PW3, PW4, PW5 and PW6 all placed the accused at the scene of crime and positively identified him as the person who assaulted the deceased. That malice aforethought was also proved by injuries the deceased sustained and the type of weapon used.
4. Accused’s counsel did not file written submissions.
5. I have considered the evidence so far from the prosecution’s side, the submissions by the prosecution and the authorities cited. As I have stated above, the issue before me at this stage is whether the evidence so far adduced warrants calling upon the accused person to defend himself. In other words, does the



accused person has a case to answer? 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”. 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. 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.”

6. The threshold set in law is whether based on the evidence before this Court, the court after properly directing its mind to the law and the evidence may convict if the accused person chose to give no evidence. It was therefore held in Ronald Nyaga Kiura vs. Republic [2018] eKLR that;

“It is important to note that at the close of prosecution, what is required in law at this stage is for the trial court to satisfy itself that a prima facie has been made out against the accused person sufficient enough to put him on his defence pursuant to the provisions of Section 211 of the Criminal Procedure Code. A prima facie case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebuttal is offered by an accused person. This is well illustrated in the cited Court of Appeal case of Ramanlal Bhat -vs- Republic [1957] EA 332. At that stage of the proceedings the trial court does not concern itself to the standard of proof required to convict which is normally beyond reasonable doubt. The weight of the evidence however must be such that it is sufficient for the trial court to place the accused to his defence.”

7. It therefore follows that a case to answer ought only to be found where the prosecution’s case, on its own, may possibly, though not necessarily, succeed. Having considered the material placed before the court, it is my view that the prosecution has established a prima facie case for the purposes of a finding that the accused person has a case to answer. He is placed on his own defence.

DATED SIGNED AND DELIVERED VIRTUALLY THIS 21ST DAY OF JANUARY 2026.

A.K. NDUNG’U

JUDGE

