



**Republic v Nyale (Criminal Case E020 of 2020)
[2026] KEHC 1522 (KLR) (12 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1522 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE E020 OF 2020
WM KAGENDO., J
FEBRUARY 12, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

MATANO MASHUNGI MWANGO NYALE ACCUSED

RULING

1. The accused person herein, Matano Mashungi Mwango Nyale, was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on the 6/12/2020 at Vipingo sub- location, within Kilifi County, jointly with others not before court murdered Bahati Charo Mwambengu.
2. The accused was arraigned in Court where the information was read out to him, and he pleaded not guilty. The accused person was represented by Mr Kinyanjui Advocate.
3. The prosecution called a total of 6 witnesses to support its case. The 2nd witness stated in his evidence that he saw the accused person stabbing the deceased with a knife. On 5th October 2023 the trial court found the accused person with a case to answer and put him on his defense. At this level, Mr Lijood took conduct of the matter from Mr Kinyanjui. Mr Lijood requested for typed proceedings for him to prepare for the defense case.
4. Before the defense case was heard the trial court went on transfer and Hon Lady Justice Judge Wendy took over the matter. On 25/6/2024 the court complied with the requirements of Section 200 of the CPC. On 8/7/2024 the accused person's advocate indicated that the matter to start denovo. However, on 3/3/2025 Pw4 and pw2 were recalled and cross-examined by Mr Lijood advocate. On 11/11/2025 the investigating officer testified and the prosecution's case was closed.
5. The Counsel for the accused person did not file submissions. I have carefully considered the evidence adduced by the prosecution. At this stage, the issue for determination before this court is whether the



evidence so far presented warrants calling upon the accused to defend himself i.e whether the accused person has a case to answer or not.

Analysis and Determination

6. From the evidence on record, it is apparent that the accused person was seen attacking the deceased.

7. In Republic vs Abdi Ibrahim Owl (2013) eKLR, a prima facie case was defined as follows;

“‘Prima facie’ is a latin term 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 as “the establishment of a legally required rebuttable presumption.”

In simple terms, it refers to the establishment of a rebuttable presumption that an accused person is guilty of the offence charged, unless the contrary is proved.

1. It is noteworthy that a prima facie case does not necessarily mean a case that must ultimately succeed. The finding merely implies that the prosecution has produced sufficient evidence which, if left uncontroverted, could sustain a conviction. The final determination of guilt still requires proof beyond reasonable doubt, a higher standard that will be assessed at the conclusion of the entire trial.

2. This court is also mindful of the caution expressed in Festo Wandera Mukando vs Republic (1980) KLR 103, where Trevelyan and Chesoni, JJ stated;

“...we once more draw attention to the inadvisability of giving reasons for holding that an accused has a case to answer. It can prove embarrassing to the Court and, in an extreme case, may require an appellate court to set aside an otherwise sound judgement. Where a submission of ‘no case’ is rejected, the Court should say no more than it is. It is otherwise where submission is upheld, when reasons should be given; for then that is the end of the case or the count or counts concerned.”

8. In light of the above, the question before this court is whether, based on the evidence adduced so far, a reasonable tribunal properly directing itself to the law and the evidence could convict the accused if he elected to remain silent.

9. Having carefully evaluated the evidence presented, and without delving into detailed findings at this stage, I am satisfied that the prosecution has established a prima facie case sufficient to require the accused to be placed on his defence.

10. Accordingly, I find that the accused person has a case to answer and is hereby placed on his defence pursuant to Section 306 (2) of the Criminal Procedure Code. His rights under Article 50 (2) (i), (k) and (l) of *the Constitution* shall be explained to him in a language understands, in the presence of his legal counsel.

**DELIVERED, DATED AND SIGNED AT MOMBASA ON THIS 12TH DAY OF FEBRUARY 2026
RULING DELIVERED THROUGH MICROSOFT TEAMS ONLINE PLATFORM.**

WENDY KAGENDO MICHENI

JUDGE



In the Presence of;-

The Accused Person and His Advocate Mr Kinyanjui - Absent Mr Sirima for the State

Bebora Court Assistant

Signed By/for:

HON. LADY JUSTICE WENDY MICHENI

