



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRC/E004/2025

REPUBLIC VS RAMADHAN MWINYI MOHAMED

RULING

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

CRIMINAL CASE NO. E004 OF 2025

REPUBLIC.....PROSECUTOR

VERSUS

RAMADHAN MWINYI

MOHAMMED.....ACCUSED

RULING

Preliminaries

1. The accused person herein was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code.
2. Particulars of the offence as per the information are that on the 5th day of November 2024 at Gambani area within Likoni Sub-County in Mombasa County, he murdered Anna Chizi Mwayama.
3. The accused persons took plea denying the offence and the case was



set down for hearing. The prosecution has so far tendered evidence



by calling their 11 witnesses and the question now at this stage, for this court, is to determine whether the prosecution has established a *prima facie* case against the accused persons to warrant them to be placed on their defence.

4. The burden of proof lies on the prosecution throughout the trial. That burden of proof does not shift to the accused person to prove his innocence. That is the only way fair trial of the accused person can be guaranteed as stipulated in Article 50 (2) of the Constitution.
5. It follows that the accused person is under no duty to give any evidence in defence to rebut the prosecution's case. An accused person has the right to remain silent and the court would decide the case on the basis of the evidence adduced, without making any adverse inference against him.

Analysis and Determination

6. I have considered the evidence so far adduced from the prosecution's side, and the issue before me at this stage is whether the evidence so far adduced warrants calling upon the accused to defend himself. In other words, does the accused have a case to answer?
7. Having said so, the standard of proof required in criminal cases is that of beyond reasonable doubt. Nonetheless as earlier stated, that standard is not applicable at this stage where the prosecution is only expected to have established a *prima facie* case against the accused persons to warrant them to be placed on their defence. A *prima facie* case is established where the evidence tendered by the Prosecution is sufficient on its own for a court of law to return a guilty verdict even if the accused opts to remain silent.
8. **Under Section 306 (1) of the Criminal Procedure Code.**

“When the evidence of the witnesses for the Prosecution has been concluded, the court, if it considers that there is no evidence that the accused or any one of the several or any one of the several accused committed the offence shall, after hearing, if necessary any arguments which the advocate for the prosecution or the defence may desire to submit, record a finding of not guilty.”

9. The court, at this stage, is considering whether the accused persons have a case to answer. A case to answer was defined in the holding of



the case *Republic – Versus – Joseph Shitandi & Another (2014) eKLR* as follows:-

“A case to answer is a case where if the accused keeps quiet, the evidence of the prosecution should be such that a conviction will result.”

10. The procedure in determination whether indeed, the accused persons have a case to answer was discussed in the case *Republic – Versus – Stephen Chomba Kamau (2021) eKLR* thus: -

“REPUBLIC -V- SAMUEL KARANJA KIRIA (2009) eKLR Justice J.B Ojwang (as he then was) stated:-

“The question at this stage is not whether or not the accused is guilty as charged but whether there is cogent evidence of his connection with the circumstances in which killing of deceased occurred. That the concept of prima facie case dictates as a matter of law that an opportunity created by this court for the accused to state his own case regarding the killing. The governing law on this point is well settled ... The Court of Appeal is Criminal Appeal No. 77/2006 expressed that too detailed analysis of evidence stage at no case to answer stage is undesirable if the court is going to put accused on his defence as too much details in the trial court’s ruling could then compromise the evidentiary quality of the defence to be mounted.”

Conclusion and Disposition.

11. Having considered the evidence of the 11 prosecution witnesses and without delving deep into the merits of that evidence as that would prejudice the accused person herein, I am satisfied that a *prima facie* case has been established against him to warrant him to be placed on his defence.
12. In the foregoing, I find that he has a case to answer and I accordingly place him on his defence.

HIS rights under Article 50 (2) (i) (k) and (l) of the Constitution as read with Section 306 (2) of the Criminal Procedure Code are guaranteed and explained to the accused person in the presence of his Legal representative and in a language that the Accused person comprehend.

IT IS SO ORDERED ACORDINGLY.



**RULING DELIVERED THROUGH MICROSOFT TEAM VIRTUAL,
SIGNED AND DATED AT MOMBASA THIS12THDAY OF
...FEBRUARY, 2026**

.....
HON. LADY JUSTICE W. M. KAGENDO
(JUDGE)
HIGH COURT OF KENYA AT MOMBASA
(CRIMINAL DIVISION)

In the presence of:

M/s. Bebora

MR NGIRI/SIMRIMA

The ACCUSED PERSON AND

Court Assistant;

State Counsel;

HIS ADVOCATE MS MAIGA

SIGNED BY/FOR:
HON. LADY JUSTICE WENDY MICHENI



THE JUDICIARY OF KENYA.
MOMBASA HIGH COURT
HIGH COURT CRIMINAL
DATE: 2026-02-12 12:34:35

