

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT CHUKA**

**HCCR NO. E004 OF 2023**

**DANIEL MUCHUNKU CHABARI**

**.....APPLICANT**

**VERSUS**

**REPUBLIC.....RESPONDEN**

**T**

**R U L I N G**

1. Daniel Muchunku Chabari is on trial for the murder of Kenneth Mugambi Mugao (deceased). The particulars of the charge are that he murdered the deceased on 24<sup>th</sup> January 2023 at Gaceraka village Nkarini Sub-Location, Nkarini Location, Tharaka South Sub-County within Tharaka Nithi County.

2. Nine witnesses have testified for the Prosecution since the trial started. The Prosecution closed its

case on 17<sup>th</sup> November 2025 and thereafter filed submissions dated 5<sup>th</sup> February 2026 on case to answer.

3. The Defence opted not to file any submissions at this stage of the trial.

4. At this stage of the proceedings what the court is required to do is to establish whether a *prima facie* case has been established. A *prima facie* case was explained by the Court of Appeal for Eastern Africa In the case of **Ramanlal Trambaklal Bhatt vs Republic (1957) E.A 332**, as follows:-

***“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot argue that a prima facie 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 could 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 argue 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 may not be easy to define what is meant by 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.** [Underline mine]

5. In analysing the evidence at this stage, I am not expected to give a detailed analysis and arrive at a firm finding on the guilt of the Accused. I agree with the caution in **Republic vs Robert Zippor Nzilu (2020) eKLR**, where Odunga J. (as he then was) stated that:-

***“That there is a danger in making definitive findings at this stage, especially where the Court finds that there is a case to answer is not farfetched and the reasons for not doing so are obvious. As was appreciated by Trevelyan and Chesoni, JJ in Festo***

**Wandera Mukando vs. The Republic**

**(1980) KLR 103:**

***“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 that it is. It is otherwise where the submission is upheld when reasons should be given; for then that is the end to the case or the count or counts concerned.”***

6. I have considered the Prosecution evidence as stated by the 9 witnesses. I have also considered the submissions filed by the Prosecution Counsel. From my careful analysis of the evidence on record, it is my finding that the Prosecution has established a *prima facie* case warranting the Accused to be put on his defence. He has a case to answer and shall elect the mode of his defence in accordance with the Section 306 of the Criminal Procedure Code.  
Orders accordingly.

**Ruling delivered, dated and signed at Chuka  
this 26<sup>th</sup> day of February, 2026.**

.....  
**R. LAGAT - KORIR**  
**JUDGE**

**Ruling delivered in the presence of the Accused,  
Ms Musyimi holding brief for Ms.Kijaru for the**

**Accused, Ms Rukunga for the Republic; Muriuki  
(Court Assistant)**

ORIGINAL