

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT GARISSA**  
**CRIMINAL CASE NO. E013 OF 2025**

**REPUBLIC** .....  
.....**PROSECUTOR**

**VERSUS**

**MOHAMED ISSACK GEDI**.....  
**ACCUSED**

**RULING**

1. The accused person herein is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on the 30<sup>th</sup> day of October, 2025 at Dekabuley village, Iftin Location, Garissa Township Sub-county, Garissa County he murdered Abdimalik Issack.
2. Having denied the charge, the case proceeded to full trial with the prosecution adducing evidence from 6 witnesses in its endeavour to discharge the burden of proof beyond reasonable doubt. As such, at this stage, this court's role is to consider the evidence on record and make a determination as to whether the same presents a *prima facie* case that would warrant this court to call upon the accused person to give his defence pursuant to Section 306 of the CPC.
3. Under 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. **[See Ramanlal Trambaklal Bhatt v R [1957] E.A 332 at 334 and 335].**

4. Similar position was held in the case of **Republic V Abdi Ibrahim Owl [2013]eKLR and Ronald Nyaga Kiura V Republic (2018) eKLR**.
5. However, it is trite that, where the court is not acquitting the accused person at the close of prosecution's case, there is no need for a reasoned ruling for a case to answer. Reasons should only be given where the submission of a no case to answer by the accused is upheld and the accused is to be acquitted. **[See Festo Wandera Mukando v Republic [1980] KLR 103]**.
6. Therefore, at the close of the prosecution's case, it is the duty of the trial court to examine and assess the evidence tendered by the prosecution so as to establish whether the elements of a prima facie case are in existence and if so, the accused will be invited to give his defence either on oath or unsworn or he may even elect to exercise his constitutional right of keeping silent. In the event he is called upon to state his defence as provided under section 306 of the Criminal Procedure Code, besides adducing evidence from himself/herself, he/she can also call witnesses to rebut the prosecution's case.
7. In the instant case, circumstances under which the offence was allegedly committed as stated by PW1-PW6 revolve around a provocation which ensued between the accused and his family members. The accused and the deceased were brothers. It is alleged that the accused without any provocation started making noise swearing to kill somebody. The family members tried to calm him down but in vain. The accused charged towards the deceased while armed with a knife hence stabbed him on the neck leading to the deceased's death.

8. Thus a review of the prosecution evidence and confining myself to the live issues relevant to the making of the decision under section 306 of the Criminal Procedure Code, I am satisfied that a prima facie case has been established to place the accused person on his defence. He is consequently informed of his rights under section 211 of CPC.

Dated, signed and delivered in open court this 4<sup>th</sup> day of March, 2026

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**J. N. ONYIEGO**  
**JUDGE**