

RULING
HCCR E019 OF 2022



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
CHERERE-J

HCCR E019 OF 2022

REPUBLIC **PROSECUTOR**
VERSUS
DENNIS MORARA KIBAGENDI **ACCUSED**

RULING ON CASE TO ANSWER

1. The accused person, Dennis Morara Kibagendi, is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars are that on 12th August 2022 at Magombo Location, Manga Sub-County within Nyamira County, he murdered Clifford Ongere Morara.
2. The prosecution has closed its case after calling seven (7) witnesses. The Court is therefore required to determine whether a prima facie case has been established to warrant placing the accused on his defence under section 306 of the Criminal Procedure Code.
3. There is no dispute that the deceased died. PW6, the medical officer who conducted the post mortem examination, formed the opinion that the cause of death was sub-dural haemorrhage due to blunt force trauma to the head.
4. There is evidence on record which places the accused at the scene on the material day and connects him, on a prima facie basis, to the events surrounding the death of the deceased.

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5. The guiding authority is **Bhatt v Republic [1957] EA 332**, where the Court held that a prima facie case is established where the evidence on record is such that a reasonable tribunal, properly directing itself on the law and the evidence, could convict if no explanation is offered by the defence. Without making any conclusive determination on credibility or weight, the evidence, if left unexplained, could sustain a conviction.
6. Consequently, I find that the accused has a case to answer. He is accordingly placed on his defence pursuant to section 306(2) of the Criminal Procedure Code and shall be informed of his rights under section 211 of the Criminal Procedure Code.
7. Defence Hearing on **11th March 2026**

**DELIVERED AT NYAMIRA THIS 19th DAY OF February
2026**

**WAMAE.T. W. CHERERE
JUDGE**

Appearances

Court Assistant - Anita

Accused - Present

For Accused - Mr. Marita

For the DPP - Mr. Chirchir (SADPP)