



**Republic v Ondieki & another (Criminal Case E006 of 2023)
[2026] KEHC 2861 (KLR) (12 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2861 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL CASE E006 OF 2023
TW CHERERE, J
FEBRUARY 12, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

RODGERS ONDIEKI 1ST ACCUSED

JARED OMWAGA MBOGO 2ND ACCUSED

RULING

1. The accused persons Rodgers Ondieki and Jared Omwaga Mbogo are 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 night of 14th and 15th February 2023 at Kianungu Village, Bigege Sub-Location, Bosamaro Chache Location, Nyamira South Sub-County within Nyamira County, jointly murdered Jonnes Mwangi Menge.
2. The accused persons pleaded not guilty. The prosecution called two witnesses and thereafter closed its case.
3. PW1, Edwin Maroko Mwai, testified that the deceased was his father. On 15th February 2023 he found him lying dead in his house with visible injuries on the head and neck. About a week later, one Elkana Maeri Onyinkwa reported to the police that the accused persons had allegedly planned the killing so as to steal KES. 3,000 as a consequence of which Accused persons were arrested and charged.
4. PW2, Dr. Hudson Onguti, conducted a post-mortem examination and formed the opinion that the cause of death was head injury caused by blunt force trauma resulting in intracranial bleeding.



5. At the close of the prosecution case, the court is required to determine whether a prima facie case has been established to warrant placing the accused on their defence. The governing principle was set out in *Ramanlal Trambaklal Bhatt v Republic* [1957] E.A. 332, where the Court of Appeal held:

“A prima facie case 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.”

6. In the present case, the fact and cause of death were proved. The prosecution bore the burden of proving that it was the accused persons who inflicted those injuries and that they did so with malice aforethought.

7. The evidence linking the accused to the offence consists solely of information allegedly given to PW1 by a third party who did not testify. That evidence is hearsay and carries no probative value.

8. Upon careful evaluation of the totality of the prosecution evidence, I am satisfied that no prima facie case has been made out. Even if the accused persons were to remain silent, there is no evidence upon which a reasonable tribunal, properly directing itself, could convict.

9. Accordingly, pursuant to section 306(1) of the Criminal Procedure Code, I find that the accused persons have no case to answer. They shall be set at liberty unless otherwise lawfully held.

DELIVERED AT NYAMIRA THIS 12TH DAY OF FEBRUARY 2026.

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

Accused 1 - Present

Accused 2 - Present

For Accused persons - Mr. Mogaka

For the DPP - Mr. Chirchir (SADPP)

