

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
HCCR E001 OF 2017

REPUBLIC

....PROSECUTION

VERUS

CYRUS MUTHINI KITUKU

ACCUSED

RULING

1. The accused person was charged with the offence of murder contrary to Section 203 as read together with Section 204 of the Penal code. The particulars are that on 25th December 2016 at Utithini Village, Masii Location, Mwala Sub-County within Machakos County murdered Gabriel Muthini Kinyumu.
2. The accused pleaded not guilty. The matter proceeded to hearing during which the prosecution called a total of 9 witnesses and closed its case.
3. The accused were directed to file submissions addressing the issue of whether the accused has a case to answer. The accused filed their submissions dated 17th February 2026. As at the time of writing this Ruling the prosecution submissions were not on record.

4. The accused proceeded to analyse the evidence of all the nine witnesses and urged that the accused person never murdered the deceased; he did not have malice and the cause of death was not as a result of the injuries afflicted by the accused. He argued that no motive was ever alluded to support the charge of murder as there was no history of hostility.
5. They urged the court to find that the evidence and testimony adduced by the prosecution witnesses not sufficient to warrant him being placed on his defence. They urged the Court to proceed and acquit the accused under section 210 of the Criminal Procedure Code.
6. Having considered the totality of the evidence of the 9 prosecution witnesses and the exhibits produced in the court, I find that a prima facie case has been established against the accused person.
7. At this juncture I will reserve my reasons for the finding. I am guided by the decision in **Festo Wandera Mukando versus Republic 1980 (KLR) 103** and **Republic versus Kevin Owuor Abith alias Opundo (2022) eKLR** which cautioned that; it is inadvisable for the trial court to give reasons as to why an accused person is placed on his defence.
8. I therefore will remain cautious not to make any definitive findings at this stage by declining to provide reasons, even

as I conclude that the accused has a case to answer. Accordingly, the accused person is placed on his defence.

Dated, signed and delivered at Machakos this 19th day of March 2026.

RHODA RUTTO
JUDGE

In the presence of;

.....Accused

.....ODPP

Selina Court Assistant