

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL CASE NO. E016 OF 2025

REPUBLIC

.....**PROSECUTOR**

VERSUS

SHAFI BILAL SHAKLANE.....

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 (Cap.63) Laws of Kenya. The particulars of the offence are that on 16th day of November, 2025 at around 0000hrs, at Borehole 5, Fafi Sub-County, Garissa County, he murdered Safiya Hussein Bilal.
2. Having denied the charge, the case proceeded to full trial with the prosecution adducing evidence from 5 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 is that the accused and the deceased were relatives. The accused met the deceased where she was sleeping with her sister, started fondling her breasts, and when the deceased resisted, he strangled her with a scarf against the wall. That when she fell down, he undressed her and started defiling her. In the morning, it was discovered the deceased had died and the accused ran away when police were called to the scene. Further, Doctor Chweya who filled the Postmortem form on 16.11.2025 confirmed that the cause of death was hypoxia secondary to strangulation.

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 18th day of March, 2026

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J. N. ONYIEGO
JUDGE