



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA TA NAKURU
CRIMINAL CASE NO. E013 OF 2023

REPUBLIC.....PROSECUTION

VERSUS

CHRISTOPHER INDIYAACCUSED

RULING ON CASE TO ANSWER

1. The accused herein, **Christopher Indiya** stands charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars of the charge are that on the 10th February 2023 at Kapnyangich Village Rongai Sub-County within Nakuru County murdered **Maxwel Kimunge Kipyegon**.
2. The Accused pleaded not guilty to the offence and the prosecution called nine (9) witnesses in support of its case.
3. The issue before this Court at this stage is whether the prosecution has established a *prima facie* case sufficient to warrant placing the accused on his defence as provided under **Section 306** of the **Criminal Procedure Code**.
4. In *Republic v Abdi Ibrahim Owl* [2013] KEHC 2122 (KLR) as follows:-

“Prima facie” is a Latin word defined by Black’s Law Dictionary, 8th Edition as “Sufficient to establish a fact or raise a presumption unless disproved or rebutted”. “Prima facie case” is defined by the same dictionary as “The establishment of a legally required rebuttable presumption”. To digest this further, in simple terms, it means the establishment of a rebuttal presumption that an accused person is guilty of the offence he/she is charged with. In Ramanlal Trambaklal Bhatt v. R [1957] E.A 332 at 334 and 335, the court stated as follows:

“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot agree that a prima facie case is made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.” This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather hopes the defence will fill the gaps in the prosecution case. Nor can we agree that the question whether there is a case to answer depends only on whether there is “some evidence, irrespective of its credibility or weight, sufficient to put the accused on his defence”. A mere scintilla of evidence can never be enough: nor can any amount of worthless discredited evidence..... It is may not be easy to define what is meant by a “prima facie case”, but at least it 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.”

5. The test is therefore settled in law that a *prima facie* case is one in which if the accused elected to remain silent, the Court could convict on the evidence presented. It is not proof beyond reasonable doubt but rather whether there is evidence upon which a reasonable Court properly directing itself would ideally base it to convict.

6. In ***Republic v Alex Musau Jimmy [2022] KEHC (KLR)*** where the Court stated as follows: -

“...However, this is not the stage at which the court minutely examines evidence and makes a conclusive determination as to whether the accused stands convicted or not. In my view, though at the end of the trial, the evidence as presented by the prosecution may fall short of convicting the accused with the offence charged, where the same may warrant a conviction on a lesser offence, the Court ought not to acquit the accused or proceed to convict him of a lesser offence without hearing him. The evidence of the accused may well exonerate him even from the conviction on the lesser offence hence it would be prudent to hear the accused before making a conclusive determination.”

7. Without delving into detail of the testimonies, the fact of death is not in question as medical evidence has confirmed the same. The medical evidence confirms the cause of death as consistent with massive bleeding owing to stabbing. The identity of, circumstances

during and consequent and his presence at the scene forms a solid *prima facie* case.

8. Without further delving on the intricacies of the evidence adduced, the chain of evidence though not conclusive at this stage, is sufficient to require an answer from the accused.
9. The Court is mindful that criminal trials are anchored in constitutional guarantees of fair hearing and due process. Placing the accused on his defence is not a finding of guilt but a procedural step ensuring that the accused is afforded the opportunity to respond to the case against him before a final determination is made.
10. Accordingly, I find that the prosecution has established the accused has a case to answer under **Section 306(2)** of the **Criminal Procedure Code**. The accused is hereby placed on his defence.
11. The Matter shall be mentioned within the next 14 days before the incoming judge for directions on hearing the defense case.

It is so Ordered.

Delivered virtual in Nakuru on this 22nd day of April, 2026

Mohochi S. M.
JUDGE