



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA COUNTY

COURT NAME: MOMBASA HIGH COURT

CASE NUMBER: HCCRC/E024/2023

REPUBLIC VS CHARO KALUME AND SAFARI RAMADHAN AND 2 OTHER(S)

RULING

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CRIMINAL CASE NO. 024 OF 2023.**

REPUBLIC..... PROSECUTOR

VERSUS

SAFARI RAMADHAN..... 1ST ACCUSED
SALOME NGUA NZARO..... 2ND ACCUSED
RAPHAEL ISUWI CHAI..... 3RD ACCUSED
CHARO JAPHET KALUME..... 4TH ACCUSED
GEDION NGUA..... 5TH ACCUSED
DAVID NZAI KOMBE..... 6TH ACCUSED

RULING

1. The 6 accused persons herein have been charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on the 30th October 2023 at Kaole village in Kilifi County jointly murdered Alice Chisaka Karisa and John Karisa Mwanza.
2. The accused persons were arraigned in Court where the information was read out to them, and they pleaded not guilty.
3. I have carefully considered the evidence adduced by the prosecution. At this stage, the issue for determination before this court is whether the evidence so far presented warrants calling upon the accused persons to defend themselves



i.e whether the accused persons have a case to answer or not.

Analysis and Determination

4. The prosecution called a total of 11 witnesses to support their case. From the evidence on record, the deceased left with some of the accused persons and went to take a traditional oath to confirm whether they were practicing witch craft or not. It is also not in dispute that they came back home and were attacked and killed before reaching their homestead.
5. In **Republic vs Abdi Ibrahim Owl (2013) eKLR**, a prima facie case was defined as follows;

“Prima facie’ is a latin term 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 as “the establishment of a legally required rebuttable presumption.”

In simple terms, it refers to the establishment of a rebuttable presumption that an accused person is guilty of the offence charged, unless the contrary is proved.

1. ***It is noteworthy that a prima facie case does not necessarily mean a case that must ultimately succeed. The finding merely implies that the prosecution has produced sufficient evidence which, if left uncontroverted, could sustain a conviction. The final determination of guilt still requires proof beyond reasonable doubt, a higher standard that will be assessed at the conclusion of the entire trial.***
2. ***This court is also mindful of the caution expressed in Festo Wandera Mukando vs Republic (1980) KLR 103, where Trevelyan and Chesoni, jj stated;***

“...we once more draw attention to the inadvisability of giving reasons for holding that an accused has a case to answer. It can prove embarrassing to the Court and, in an extreme case, may require an appellate court to set aside an otherwise sound judgement. Where a submission of ‘no case’ is rejected, the Court should say no more than it is. It is otherwise where submission is upheld, when reasons should be given; for then that is the end of the case or the count or counts concerned.”

6. In light of the above, the question before this court is whether, based on the evidence adduced so far, a reasonable tribunal properly directing itself to the law and the evidence could convict the accused persons if they elected to remain silent.



7. Having carefully evaluated the evidence presented, and without delving into detailed findings at this stage, I am satisfied that the prosecution has established a prima facie case sufficient to require both the accused persons to be placed on their defence.
8. Accordingly, I find that all the 6 accused persons have a case to answer and are hereby placed on their defence pursuant to Section 306 (2) of the Criminal Procedure Code. Their rights under Article 50 (2) (i), (k) and (l) of the Constitution shall be explained to them in a language they understand, in the presence of their legal counsel.

DELIVERED, DATED and SIGNED at MOMBASA on this 16th day of APRIL 2026.
Ruling delivered through Microsoft Teams Online Platform.

WENDY KAGENDO MICHENI
JUDGE

In the presence of:-

**The 6 accused persons and MS Mkungu for
A2 Mr. Sirima for the state
Bebora court assistant**

SIGNED BY/FOR:
HON. LADY JUSTICE WENDY MICHENI



☐ THE JUDICIARY OF KENYA ★

**HON. LADY JUSTICE WENDY
MICHENI**

Mombasa High Court
High Court Criminal
Date: 2026-04-16 14:35:43

