



**Republic v Agwanda (Criminal Case E003 of 2025)  
[2026] KEHC 4441 (KLR) (19 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 4441 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL CASE E003 OF 2025  
TW CHERERE, J  
MARCH 19, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**SAMUEL OKSKOS AGWANDA ..... ACCUSED**

**RULING**

1. The accused person is 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 23<sup>rd</sup> January 2025 at Chepilat Area in Borabu Sub-County within Nyamira County, the accused murdered Emiliano Damara.
2. The prosecution called five witnesses and thereafter closed its case. The court is now required to determine whether the evidence on record discloses a case sufficient to require the accused to be placed on his defence.
3. The applicable legal principle is settled. In determining whether an accused person should be put on his defence, the court must consider whether the prosecution has established a prima facie case. In *Ramanlal Trambaklal Bhatt v Republic* [1957] E.A. 332, the Court of Appeal stated that a prima facie case is one on which a reasonable tribunal, properly directing itself on the law and the evidence, could convict if no explanation is offered by the defence.<sup>7</sup>
4. At this stage, the court is not required to make definitive findings on the credibility of witnesses or to resolve any inconsistencies in the prosecution evidence. Those matters fall for determination after the defence case, if any, has been presented. The court is only required to determine whether the evidence on record, if left unexplained, could sustain a conviction.
5. From the totality of the prosecution case, I am satisfied that the prosecution has established a prima facie case against the accused person.



6. Accordingly, under section 306(2) of the Criminal Procedure Code, the accused is hereby placed on his defence.

**DELIVERED AT NYAMIRA THIS 19<sup>TH</sup> DAY OF MARCH 2026**

**WAMAE.T. W. CHERERE**

**JUDGE**

Appearances

Court Assistant - Anita

1<sup>st</sup> Accused - Present

2<sup>nd</sup> Accused - Present

For Accused persons - Mr. Onyancha Advocate

For the DPP - Mr. Chirchir (SADPP)

