



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Mogambi (Criminal Case E021 of 2023)  
[2026] KEHC 4437 (KLR) (18 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 4437 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYAMIRA  
CRIMINAL CASE E021 OF 2023  
TW CHERERE, J  
MARCH 18, 2026**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**JAPHET KAMANDA MOGAMBI ..... ACCUSED**

**RULING**

1. The accused person, Japhet Kamanda Mogambi, 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 23rd November 2023 at Kiamanga Village in Nyamira County, the accused murdered Abel Onunda Mogambi.
2. The prosecution called three witnesses and thereafter closed its case. The court must now determine whether the evidence placed before the court establishes a case sufficient to require the accused to be placed on his defence.
3. The law governing this stage of the proceedings is settled. The court is required to determine whether the prosecution has established a prima facie case against the accused. The classic formulation of this test was stated in Ramanlal Trambaklal Bhatt v Republic [1957] E.A. 332, where the Court of Appeal held 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.
4. At this stage, the court does not undertake a detailed evaluation of the evidence nor determine the credibility of witnesses. The court is only required to consider whether the evidence adduced by the prosecution, if left unexplained, could sustain a conviction.
5. After considering the evidence of the five prosecution witnesses, the court is satisfied that the prosecution has placed before the court evidence which, if left unexplained, could sustain a conviction.



6. Accordingly, I find that the prosecution has established a prima facie case against the accused person. The accused is therefore placed on his defence pursuant to section 306(2) of the Criminal Procedure Code.

**DELIVERED AT NYAMIRA THIS 18<sup>th</sup> DAY OF March, 2026**

**WAMAE.T. W. CHERERE**

**JUDGE**

Appearances

Court Assistant - Anita

Accused - Present

For Accused persons - Mr. Angwenyi Advocate

For the DPP - Mr. Chirchir (SADPP)

