



**Republic v Mawombo alias Victor Orina (Criminal Case
E018 of 2023) [2026] KEHC 4439 (KLR) (5 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 4439 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CRIMINAL CASE E018 OF 2023
TW CHERERE, J
MARCH 5, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

ANDJOEL OKARI MAWOMBO ALIAS VICTOR ORINA ACCUSED

RULING

1. The accused person, Joel Okari Mawombo alias Victor Orina, is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars are that on 04th September 2023 at Nyanderema Village, Miruka Sub-Location, West Mugirango Location, Nyamira South Sub-County within Nyamira County, he murdered Nelco Ngota Barake.
3. The prosecution called six (6) witnesses before closing its case. The Court is now called upon to determine whether the accused has a case to answer within the meaning of section 306 of the Criminal Procedure Code.
4. The test to be applied at this stage is settled in *Bhatt v Republic* [1957] EA 332, where it was held that a prima facie case is established where the prosecution evidence, if uncontroverted, would warrant a conviction. The Court cautioned that a trial court is not required at this stage to make definitive findings on credibility or to determine whether the case has been proved beyond reasonable doubt. The question is whether there is evidence upon which a reasonable tribunal, properly directing itself, could convict if the accused elected to remain silent.
5. I have considered the totality of the prosecution evidence on record in light of that principle.
6. Without delving into an evaluation of credibility or making definitive findings of fact, the prosecution evidence, taken at its highest and without evaluating credibility, establishes prima facie proof of the



death of the deceased, the cause of that death, and material placing the accused in circumstances connecting him with the fatal act. If left unanswered, that evidence could sustain a conviction.

7. Accordingly, I find that a prima facie case has been established against the accused person.
8. Pursuant to section 306(2) of the Criminal Procedure Code, I find that the accused has a case to answer and he is hereby placed on his defence.
9. Defence hearing on 14th April 2026

DELIVERED AT NYAMIRA THIS 05TH DAY OF MARCH

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Anita

Accused - Present

For Accused - Ms. Shilwatso

For the DPP - Mr. Chirchir (SADPP)

