



**Republic v Ngariu alias Dante (Criminal Case 32 of 2017)
[2026] KEHC 5563 (KLR) (Crim) (30 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5563 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CRIMINAL
CRIMINAL CASE 32 OF 2017
MW MUIGAI, J
APRIL 30, 2026**

BETWEEN

REPUBLIC PROSECUTION

AND

DANIEL KURIA NGARIU ALIAS DANTE ACCUSED

RULING

Case/No Case to Answer

1. The accused is charged with the offence of Murder Contrary to section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that:

On the 26th April 2017 along Juja Road in Starehe sub county within Nairobi County jointly with another not before court murdered George Ndege.

2. The accused was arraigned before court on 10/7/2017 when he pleaded not guilty to the charges. Hon Lesiit LJ (as she then was) found the Appellant After an 10/7/2024
3. The prosecution called 10 witnesses in proof of the offence.
4. The court is required to determine whether the prosecution’s evidence has established a prima facie case .

The Prosecution Evidence .

5. Pw1 Patrick Muchiri Mbogo a resident of Shauri Moyo and a loader at Gikomba area testified that in the year 2017 he used to work as a waiter .That on 26/4/2016 he was from the hotel at Ngara and that he was going to chew miraa with his friend at Chai road Pangani Girls area.



6. It was not a working day, that they were campaigning and they started erecting posters on the road .It was at 200:00am .That the nominations for jubilee party was to take place and they were given posters which were to be placed at the nomination place . Each person would get ksh 200/= and they were 11 people placing posters at Juja Primary , Pangani Girls and Pangani primary school.
7. That at 4:00am some youth came with Njagua's posters , they came in a pick up and plucked the posters they had placed and threw them on the trenches but they still went back to pick other posters and continued to affix them.
8. That they encountered the same people who were armed with weapons and they alighted from the pick up and attacked them. The attackers were 10 while they were 11 . He stated that he with George Ndege (the deceased), Mwangi, Cisco and others he could not remember. That people ran away and he remained with George, (the deceased).
9. The people carried pangas and metals. He only knew Daniel who was also in the pick up and that he alighted and stabbed George with a knife on the neck . See page 76. Further that there was light along the road and that the electric light enabled them to see .There were also street lights along that road ,see page 76.
10. That he attempted to run but his mate hit him with metal. That he also attempted to wake up when he was cut on the legs. That he lost consciousness and regained consciousness at Kenyatta National hospital where he stayed for 1 month seven days.
11. He stated that he started getting calls threatening him not to record statements. That the DCI officer Yusuf Gituma called him to the office to record a statement. This was after 2 weeks.
12. Pw1 identified Daniel as the accused on the dock , he testified that he knew him as a campaigner in the other camp and that he never disagreed with him.
13. He was cross examined , he stated that he had used miraa worth 100/= which was about 20grams . He used it from 7:00 am . He admitted that one gets high on miraa but he had not used it when he was recording his statement and as he gave his evidence in court.
14. That he also goes to church and nolonger used miraa.
15. That the name Daniel was not in the statement and the name of the deceased did not appear in the statement although he mentioned when he recorded the statement.
16. That he was hit by a metal and he lost consciousness, that he knew Daniel because he was in politics. He supported Maina Kamanda while Daniel supported Charles Njangua. That he used to meet him at Starehe constituency although he did not know where Daniel stayed.
17. That police officers rushed him to hospital, he identified one Kareithi, a co officer from Pangani DCI who also gave him his number.
18. That he received threats after he was discharged but he did not report to the hospital or give the number of the person to the police. He threw it away.
19. That he was called to identify the assailant.
20. He did not know the other people in the pick up and he did not count them .He did not know the driver or the registration number of the pick up although he encountered it twice . The vehicle was white in colour.
21. He testified that he also knew his assailant and he could identify him.



22. He stated during re-examination that he was with the deceased and that Daniel assaulted him. That did not record the statement that was before court(denied the statement in court) He also said his testimony was not fabricated.
23. Pw2 Denis Ndege , the deceased father stated that his daughter Anna Njeri Ndege called her mother about the deceased death .
24. That his wife told her George Namondo Ndege , his 3rd born son had been killed.This was at 6:05 am . That was at Radiant clinic Pangani , he identified himself as the deceased father and a nurse led him to the corridor where the deceased was .The clinic did not have a mortuary. He identified the deceased and that the deceased had an injury on the head above the ear , 2 stab wounds on the neck and on the left leg.
25. He went to the police station to ask for a vehicle to transport the body but they were told that the vehicles were out on campaigns. He asked for a police officer to accompany him and they used his vehicle and they went with his wife and Njoroje to pick the body .They took the body to Lee Funeral home and the officer signed some documents.
26. That Dr. Ndegwa performed the postmortem; he identified the body and that he was with his brother Bernard Ndege. That the deceased was 28 years old and he had returned from Dubai and was on visit. He used to live at Mathare and lived in Kenya for one year.
27. Pw3 No. 67034 Patrick Gituma attached at DCI where he did investigations testified that on 24/4/2017 he was attached at DCI Starehe when he received information of an attack by a rival group politicking along Thika road. He received information about the attack at about 7:30 am and that it was between Honourable Maina Kamanda and Honourable Njagua of starehe constituency
28. He was accompanied by Sgt. Mabonga with traffic officers, he also helped in recording statements. He testified that the deceased was running when he was hit by motor vehicle registration No. KBY839 G as he was being chased by the rival group.
29. Pw3 visited Radiant hospital where the deceased was taken, he only saw one patient who was also attacked by the people.
30. The suspect was later arrested by Sgt. Mabonga and another. He was identified by witnesses who recorded statements. Pw3 did not establish the number of attackers.
31. He accompanied Sgt. Mabonga to Lee Funeral home for the postmortem where he found family members.
32. He also saw the suspect at the station. The accused was identified in court , Pw3 stated that the accused was among the attackers who were armed with crude weapons listed as knives , sticks etc .
33. The suspect was taken to Dr. Maundu for medical check up on 2/5/2017 .
34. He was cross examined; he stated that the report was made by members of the public but he did not know them. That it was a time for nomination for parliament although he could not remember the party. He also visited the scene which was very far from the nomination centre .That Starehe police station was also aware of the exercise , he explained that such exercises have security and officers must have been deployed to the place.
35. That he found PW1 at the hospital, he did not go to the station but he later came to record his statement.



36. Pw 3 said that he did not know what was on the Occurrence book and that he did not know the composition of the group.
37. That Ndege was knocked by a vehicle, there was no construction on the road since 2017 and no one got CCTV footage of the road. That the driver of the vehicle was arrested and it was not the accused. He was not aware if a traffic file was opened.
38. He stated during re-examination that the accused was arrested on the evening of the same day.
39. Pw4 No. 49621 CPL Abdi Yusuf from DCI Shauri Moyo was also stationed at DCI Starehe in the year 2017 where he was performing investigations.
40. He testified that on 26/4/2017 at 7:30 am he received a report from James Onyango Makarani who told them about the fight between Honourable Maina Kamanda and Njagua's group . That a group was placing posters of Maina Kamanda on the wall only to be attacked by the group of Honourable Njagua and they collided.
41. That the group of Honourable Njagua was armed with crude weapons and Daniel Kuria alias Dante was the leader of Njagua's group while they were chasing them. That the deceased and his friend Muchiri were crossing the road only to be hit by motor vehicle KBY 839 G . That they were hit as they fled the place.
42. They were rushed to Radiant hospital where George Ndege was pronounced dead and Muchiri was taken to Kenyatta National Hospital.
43. They visited the scene with PC. Gituma and Charles Mabongo who was the lead investigator . They went to Radiant hospital and confirmed that the deceased and Muchiri had been injured .They did not confirm whether injuries had inflicted on them. They also recorded witness statements .
44. The accused was arrested on 26/4/2017 at around 5:30 pm near Pangani after witness identification. He was also identified at the dock.
45. Pw4 was cross examined , he confirmed his evidence that the deceased and Muchiri were fleeing from the scene when they were hit by the vehicle .The vehicle was inspected and an offence was disclosed but the driver was not charged. That Muchiri was hit by the same vehicle.
46. That the accused was an agent of Honourable Njagua and was arrested in the evening after nomination. He was found at Pangani girls and the polling station was inside the school. He was identified by witnesses allied to Honourable Maina Kamanda and the accused was not armed. He did record that he saw the accused hit the deceased.
47. Further that the people who were chasing the deceased were not brought to court. The evidence was that he one of those chasing. That the accused did not have the vehicle at the time of arrest. Also that the others who were chasing were not found or identified .
48. That it was said that the people came with a pick up owned by Waihenya the former MCA but they did not find Waihenya or the driver . Waihenya also refused to avail his pick up. He did not go to his home to look for the weapons.
49. Pw5 Aggrey Omondi Odondo also a resident at Pangani and boda boda operator at the time of the offence. His evidence was that he was an agent for Maina Kamanda and that on 25/4/2017 , Victor who was their leader gave him the posters they would use for campaigning . That they were 10 people listed as Dorcas, Cisco , Mulami, Peter ,George ,Patrick and others . They were to start off at Pangani primary then Juja primary and Pangani Girls.



50. The march was to begin at 3:00am and they were at Pangani primary , at 6:00am they were at Pangani Girls and were 8 people at the time. Two of them followed them from behind .
51. That they had ran out of glue when they reached Pangani Girls, six (6) of then decided to go and look for glue as they still had many posters.
52. That Muchiri and Peter remained while George and Patick were among the six who had gone to get glue . He remained with another person , he did not remember the name of the person.
53. That a pick up KBA came with 15 fifteen lads who also wanted to place posters at Pangani Girls , these were supporters of MCA Peter Waihenya and MP Charles Njagua. Pw5 told they that they could place the posters as the wall was without posters . That the 6 six people who had gone to get glue arrived while the group placed posters, the two (2) also came.
54. The other group left.
55. That nine (9) of them decided to go to Juja road among them were George, Patrick Muchiri , Cisco and others and they went to check if posters were still on the wall.
56. Pw5 decided to return the remaining posters to the store . That Mulami came and claimed that they had been attacked by some people on the pick up.
57. That George and Patrick had been knocked by vehicle .Pw5 ran to the place which was at Juja road opposite Pangani police station where he found George and Patrick on the ground. That George had injuries on the forehead and by the neck while Patrick had deep cut on the right leg . That Victor got a small motor vehicle which carried them to Radiant hospital and he assisted in placing them on the vehicle.
58. That on reaching the hospital , the doctor said that George had passed on. He recorded his statement at the police.
59. He met Cisco with DCI officers at 5:30 pm and he accompanied them .He said that Cisco is the one who knew who attacked them , they went to Pangani Girls where they found Dante who was arrested
60. He said that he did not know the accused before , or the person on the dock.
61. He stated during cross examination that the pick up belonged to MCA Peter Waihenya , he knew the MCA but he did not know the accused. That George and the deceased were knocked by the motor vehicle as per what he was told. He did not witness any person being assaulted .
62. Pw6 George Maina Mburu a registered clinical officer who was based at Radiant Hospital at Pangani testified that on 26/4/2017 he was at casualty when 2 individuals were brought by well wishers .The individuals were identified as George Ndege and Patrick Muchiri .That Patrick was a bit confused , he was conscious and he had 2 cut wounds ; a deep one on the right ankle joint .That they arrested the bleeding and the patient requested to be reffered to Kenyatta National Hospital .
63. George Ndege was soaked in blood and was un responsive and on examination , he has 2 stab wounds on the right side of the neck and another on the chin while the forehead had multiple bruises . On examination of the chest , Pw6 found that there was no sign of life or sign of cardio pulmonary response. He pronounced him dead on arrival in hospital .
64. That on further examination, the deceased had a compound fracture on the left leg which was broken many times. He wrote a notification of death for them which was taken to Pangani Police station . That there was a person who identified himself as the dad.



65. He stated during cross examination that he could not tell whether the compound fractures were consistent with Road traffic accident and he was not informed if the patient was hit by a vehicle .That it was alleged that he was assaulted . He confirmed that they kept records of patients but there was an interchange of the hospital the previous year . He could not tell if they secured the information and he could not tell who brought George to the hospital.
66. He admitted that he did not avail evidence of records from the hospital and there were gaps in the evidence .He should have attached the hospital records to the statement.
67. Pw7 Sgt Nelson Kibwage from Nairobi area traffic headquarters said that he was attached at Pangani Police station in the year 2017 and that on 26/4/2017 he had been assigned duties at Ring Road Juja junction which was near Pangani police station. That it was near street lights.
68. That at about 6:00am he saw a stationery motor vehicle along the road which was facing town . The vehicle was Isuzu mini bus KBY 839 G belonging to Mwiki Sacco , it was on the right lane facing town and people had surrounded it.
69. That there was a man lying down on the middle lane which was the left side of the bus. Besides him were poster with the photo of Maina Kamanda and some glue in a bucket with glue. People were saying that the person had been knocked and they asked him to assist by taking him to hospital.
70. That the person was bleeding from face injuries, he touched him and he was not responding.
71. He called C.I Mutuku who was his boss and he organised a station vehicle which took him to Radiant Hospital. .
72. That as they placed him in the vehicle another man who was also injured was removed from the pavement. The person was injured on the leg and he was placed on the motor vehicle. Later C.I Mutuku instructed him to take the vehicle to Pangani Police station; he escorted the mini bus to the station where he also learnt that the individuals had died.
73. He was instructed to record statements and to draw a skeleton of the road which he did.He was with PC. Aboyo .
74. Pw6 produced a rough skeleton plan as exhibit 2 and the final plans as exhibit 3 and 4.
75. He stated that the plan only showed where the deceased body was and that the vehicle's front windscreen and the left side mirror was damaged. The DCI investigated the case.
76. He was cross examined, he stated that the person by the road side was hit by a motor vehicle and the windscreen on the left side
77. The fair skeleton plan was developed from the rough skeleton plan . It has fixed points , Juja Road sign as Point A , the edge of the road as Point B, the pavement joining roads as point C and the position of the vehicle as point D . The position of the victim is indicated as point F .
78. He gave the measures and signed the document.
79. He referred to the fair plan , MFI 3 and the measurements. He also said that the side mirror was damaged and that he took the driver of the vehicle and handed him to the DCI.
80. That the DCI should investigate the case for causing death by Dangerous driving . However, it turned out that the person had been stabbed by a sharp object and the matter was not for DTO.



81. The posters were handed over to the DCIO personnel. That photographs of the scene were not taken and he did not take photos.
82. He stated during re-examination that the DCIO took over investigations and that he marked the scene to draw the sketch plan.
83. Pw 8 Dr. Peter Ndegwa from Ministry of health department of Diagnostics and medical legal section and a pathologist referred court to the post mortem report.
84. He stated that on 29/4/2017 he performed the postmortem with Dr Ndungu Joseph also a pathologist.
85. That the body of John Ndege was identified by Danson Ndege and Bernard Ndege. That Sgt. Mabonga and Churchill Gituma of Panagani police station who were also in attendance.
86. The body of an African male aged 28 years old slim and tall in good nutritional state. That the clothes were stained in blood black jacket blue T-shirt and blue trousers.
87. That he had lacerations on the frontal scalp 2 by 2 cm lacerations on the right side of the knee 3 by 2.5 cm lacerations on the right sub -mediblar area laceration on the chin which was 3 cm long
88. The deceased also had a compound fracture on the left tibia fibula , bruises on the left lateral and bruises on the shoulder which was 3 by 3 cm and 2 abrasions on the right knee and on the right side of the mandible.
89. The internal body was also examined .
90. Pw 8 stated that, from this examination the informed cause of death was multiple organ injuries due to blunt force trauma.
91. That Sgt. Mabonga also requested for a blood sample.
92. The post mortem was signed on 29/4/2017 and pw8 produced it as exhibit 1.
93. He was cross examined when he stated that he did not observe any injury by stab object , also that a knife is sharp and he did not see any. That the injuries he noted could be similar to road traffic accident.
94. That the history was from the police officer .
95. He also stated that he did not want to commit himself on the cause of death consistent with being hit by a motor vehicle or by the stab wounds. See page 132.
96. He was not aware of Dr. Ndungu's opinion.
97. Pw 9 Ann Ndege Njeri the deceased brother testified virtually. She said that on 26/4/2017 his brother's friend called Kefa called her and said that he was not seeing her brother.
98. That at the time political campaigns were ongoing and the deceased was campaigning for Maina Kamanda an MP at the time.
99. She called Kefa who said the deceased was injured . That Kefa went offline and she called a family friend called Sophie who said that Georgie was injured, she hang up.
100. That Zena also told her directly that George was stabbed and he had died, he was at Radiant hospital .She asked her "what do you mean?" but she (Zena) hang up.
101. She called again and Zena said her brother was at Radiant hospital , pw 9 told her to "tell the truth if her brother was dead ."



102. After wards she called her mom and told her that George’s phone was not going through, she later called mum and told her that they should go to Radiant Hospital.
103. She took a matatu to the hospital , she found Sophie and one lady and they went inside of the hospital where she saw her brother .That she opened his shirt and confirmed it was indeed her brother . He had a deep wound on the forehead and chin and under the neck and leg . That the guard told him not to touch the body, she cried about it was also told to go to the police station and to book an OB .
104. She went with her dad to Pangani police station where they obtained an OB , they also used his dad’s car to take the deceased to the mortuary.
105. That his brother had come back from Dubai and his contract had expired . He was not married .
106. That he saw Daniel in court but he did not know anything about him.
107. Pw10 Charles Mbugua who was retired from the Police service stated that he was a sergeant at Starehe DCI office . That on 26/ 4/2017 at 7:30he received 4 men reporting on an incident of an attack. The reportees were James Oyongo , Jotham Muthunguru , Njoki ,Aggrey Omondi (pw5) and Wainaina.
108. There were party politics along Juja road a rival group of people in a pick up werea armed with crude weapons and they descended on them and injured George Ndege the deceased. The weapons were descried as pangas etc.
109. That the deceased was hit as were fleeing towards Ring road when he was hit by a motor vehicle which was matatu registration number KBY 839 G...
110. They recorded statements of the reportee.The victim was rushed to the nearby hospital . Pw10 accompanied the other personnel to visit the scene , the deceased was hit by the motor vehicle along Ring road and the vehicle was towed to Pangani police station .He drew a sketch plan, they also went to Radiant hospital along Ring road but they found that the victim had succumbed to the injuries .
111. That he noticed that the deceased had a deep wound on the chin and on the forehead , he had bruises on the left knee and fracture on the left leg and on the neck.
112. The deceased was taken to the mortuary .
113. He also said that they arrested the accused on 26/4/2017 with the help of the 4 reportees . The accused was arrested at Pangani Girls high school where a by election was conducted .
114. The reportees identified the accused as one who was among the rival group that attacked them, he was taken to Pangani police station.
115. That they sought custodial orders before court on 28/4/2017 and also tried to get the pick up but they could not get it .
116. That on 29/4/2017 he proceeded to Lee Funeral home where the postmortem was done , the deceased was left in the company of family members Jackson Ndege , his father and Bernard Ndege the deceased brother .
117. The postmortem was done by Dr Ndegwa who filled and signed the post mortem form . The cause of death was multiple organ injury due to blunt force trauma .
118. On 2/5/2017 the police surgeon filled the P3 form on the accused mental status . The vehicle involved in the accident was also inspected at Pangani police station and the report was finalised. He reliably



- learnt of another victim one Patrick Muchiri and about the attack by a group of people who were in a pick up .He was taken to Radiant hospital and a P3 form was filled , he did not die.
119. That he charged the accused with the offence of murder, this was informed by the report of the 4 reportees .The deceased was cut on the chin and was fractured as he was fleeing and he was hit by oncoming vehicle.
 120. He was cross examined and he explained that the accused hit the deceased while armed with a panga but he did not die .That he was hit by the motor vehicle as he fled.He recorded statement of 5 reportees although his statement indicated 2 reportees.
 121. He did not know about the Jubilee party nominations between Njagua and Maina Kamanda , it had been a long time since the incident. He also did not know if Mr. Njagua became the MP. in 2017 but the accused was in the group of MCA Peter Wahinya and the rival was Maina Kamanda.
 122. He recorded the driver's statement who was also a witness in the case. He was not charged with dangerous driving which is a traffic offence, they opted to proceed with the murder case as the deceased was attacked by the accused and rival group and he had been injured as he fled to the scene.
 123. The sketch plan was for causing death by dangerous driving and he did not want to produce the sketch plan. He also visited the scene with scenes of crime, the photos of the deceased while lying on the ground were not taken as he had been rushed to the hospital .The motor vehicle was also towed to the station to avoid traffic jam. That the accused was a polling agent at Pangani police station and he did not find him with any weapon.

Submissions on Case to Answer -Prosecution

124. Parties filed written submissions under Section 306 of the Criminal Procedure Code .
125. The prosecution submits that the deceased body was positively identified at Lee Funeral home and that the post mortem proved the cause of death as multiple injuries head ,chest ,abdominal injuries and blunt force trauma .
126. That the death was a direct and proximate result of an unlawful act .That the fatal motor accident was a direct consequence of a violent unlawful assault by the accused and his accomplices.
127. That the witnesses gave consistent evidence that the deceased and his colleagues were attacked by a group of men who were armed with pangas and knives. The deceased was seen with deep cut wounds on the chin , neck and forehead after the attack and before the accident. The violent attack caused deceased and his colleague to run across the road in desperate bid to save their lives. That fleeing across the road was natural and direct result of life threatening violence initiated by the accused .
128. It is further submitted that the actions of the accused and his group fell into the definition of malice aforethought .That attacking unarmed individuals before dawn with deadly weapons such as pangas and knives proves intention to cause grievous harm. The nature, severity and location of injuries caused to the deceased and Patrick Muchiri also confirmed malice aforethought.
129. On positive identification of the accused, the prosecution submit that he was positively identified by multiple eye witnesses as a principal participant of the attack. The prosecution refers to statements of D1 and D2 and D5 who identified the accused as Dan namely Dante, that Dante and Mandos were seen cutting and beating two victims.



130. That the witnesses were familiar with the accused and were also in close proximity. Lastly that the evidence is overwhelming establishing a clear chain of causation and also demonstrates malice aforethought.

The Accused Submissions.

131. The accused written submissions are on record, the issues for determination are framed as whether the prosecution established the ingredients of the offence of murder, whether the evidence is sufficient to establish a prima facie case.

132. The accused submits whereas death is not contested the other ingredients are not established. That the evidence is to the effect that the deceased died after he was knocked down by a motor vehicle matatu whose driver was arrested. The driver was not charged and he did not testify as a prosecution witness.

133. That Pw4 and pw5 confirmed that the deceased and Patrick Muchiri were hit by the vehicle. Pw4 confirmed that the driver was not charged while Pw 5 who was working with the deceased and PW1 said that he ran to the scene after being informed the two were hit by a vehicle, he found them lying down. Further that Pw10 said that the deceased was knocked down by a vehicle which was driven by one Mr. Nyambura. The doctor stated in cross examination that he did not observe any stab injuries caused by a sharp object such as knife and injuries could have been similar to those of a road traffic accident.

134. Pw1 did not confirm that he was hit by a vehicle as claimed by witnesses, the accused submits that Pw1, Pw2 and the clinical officer (PW6) were pushing a false narrative about the deceased dying from stab wounds inflicted by the accused. Pw6 did not have documents to authenticate his qualification and he was informed that the deceased was stabbed and did not know he had been hit by a motor vehicle.

135. The accused submits that the proof death as a direct consequence of an unlawful act or omission has not been proved.

136. On whether a prima facie case is established, it is submitted that it is not unclear on details and information that led to the accused arrest on the same day of the deceased death. That Pw1 and Pw5 were on the scene and the two did not give the police information that linked the accused to the alleged attack. Pw1 became unconscious on the scene and he regain consciousness at Kenyatta National Hospital, he did not talk to police that day and police did not allege that they talked to him.

137. Pw5 saw the deceased and Pw1 and where the two laid after being knocked down by the matatu. He did not see anyone being assaulted and that Cisco was the one who led police to arrest the accused.

138. The Court finds that the death of Deceased was proved by Pathologist through Post Mortem report. The cause of death is through evidence by various witnesses as confirmed from the Court record recorded by previous Courts, that the deceased was allegedly stabbed by knives and cut by pangas on the chest neck and chin by group members in rival political group members. As he was fleeing from attackers' he was hit by a fast-moving mini bus along Ring road as he crossed the other side. The Sketch Plan was produced to this effect.

139. Pw1 gave evidence on the attack and how he saw the accused stab the deceased .

140. That the accused alighted from the pick-up and stabbed George with a knife on the neck.

141. Pw1 attempted to run when the accused's mate hit him with metal and he ran away, he attempted to wake up when he was cut on the legs. He regained consciousness at Kenyatta National Hospital .



In the case of Ronald Nyaga Kiura –vs- Republic [2018] eKLR paragraph 22 is as follows: -

It is important to note that at the close of prosecution, what is required in law at stage is for the trial court to satisfy itself that prima facie has been made out against the accused person sufficient enough to put him on his defense pursuant to the provisions of Section 211 of the Criminal Procedure Code. A prima facie case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebutted is offered by an accused person.

In the case of Anthony Njue Njeru vs Republic Court of Appeal No 77 of 2006; the Court determined the scope and content of case or no case to answer Ruling by the Court as follows;

[Is] Was there a prima facie case to warrant the Trial Court to call upon the appellant to defend himself? It is a cardinal principle of our law that the onus is on the prosecution to prove its case beyond reasonable doubt and a prima facie case is not made out if, at the close of prosecution the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction”.

The issue of what is a prima facie case in criminal trials was clearly explained in Ramanlal Trambaklal Bhatt vs R [1957] E.A. 332 at P. 334-335 where it was said:-

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 defense is made, but rather hopes the defense 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 defense.”

Disposition

1. Upon this Court’s consideration of the totality of the evidence adduced and on record, the Prosecution has proved a prima facie case that warrants the Accused person to be placed on his Defense.
2. Further Mention for Directions on 14/5/2026.

RULING DELIVERED DATED & SIGNED IN OPEN COURT CRIMINAL DIVISION HIGH COURT OF KENYA AT NAIROBI ON 30/4/2026

M.W. MUIGAI

JUDGE

