



REPUBLIC OF KENYA



**Republic v Tiffow & 2 others (Criminal Case E004 of 2025)
[2026] KEHC 5590 (KLR) (16 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5590 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE E004 OF 2025
JN ONYIEGO, J
APRIL 16, 2026**

BETWEEN

REPUBLIC PROSECUTOR

AND

MOHAMED KASSIM TIFFOW 1ST ACCUSED

MUSA SHEIKH AHMED 2ND ACCUSED

ADAN MOHAMED AHMED 3RD ACCUSED

RULING

1. The Accused Persons herein are 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 22nd day of March, 2025 at Lolkuta South Sub-location, Wara Location, Hadado Sub-county, within Wajir County, in the Republic of Kenya, jointly murdered Gaala Adan.
2. Having denied the charge, the case proceeded to full trial with the prosecution adducing evidence from 11 witnesses in its endeavour to discharge the burden of proof beyond reasonable doubt. As such, at this stage, this court's role is to consider the evidence on record and make a determination as to whether the same presents a prima facie case that would warrant this court to call upon the Accused Persons to give their defence pursuant to Section 306 of the Criminal Procedure Code.
3. Under 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 rebuttal is offered by an accused person. [See Ramanlal Trambaklal Bhatt v R [1957] E.A 332 at 334 and 335].
4. Similar position was held in the case of Republic V Abdi Ibrahim Owl [2013]eKLR and Ronald Nyaga Kiura V Republic (2018) eKLR].



5. However, it is trite that, where the court is not acquitting the accused person at the close of prosecution's case, there is no need for a reasoned ruling for a case to answer. Reasons should only be given where the submission of a no case to answer by the accused is upheld and the accused is to be acquitted. [See Festo Wandera Mukando v Republic [1980] KLR 103].
6. Therefore, at the close of the prosecution's case, it is the duty of the trial court to examine and assess the evidence tendered by the prosecution so as to establish whether the elements of a prima facie case are in existence and if so, the accused will be invited to give his defence either on oath or unsworn or he may even elect to exercise his constitutional right of keeping silent. In the event he is called upon to state his defence as provided under Section 306 of the Criminal Procedure Code, besides adducing evidence from himself/herself, he/she can also call witnesses to rebut the prosecution's case.
7. Thus, a review of the prosecution's circumstantial evidence leading to the arrest of the Accused Persons and confining myself to the live issues relevant to the making of the decision under Section 306 of the Criminal Procedure Code, I am satisfied that a prima facie case has been established to place the Accused Persons on their defence. Section 211 of the Criminal Procedure Code be complied with.

DATED, SIGNED AND DELIVERED IN VIRTUALLY THIS 16TH DAY OF APRIL, 2026

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J. N. ONYIEGO

JUDGE

