

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT SIAYA
CRIMINAL CASE NO. E006 OF 2025

REPUBLIC.....PROSECUTION

VERSUS

BONFACE OMONDI OTIEN ALIAS LANG''O.....1ST ACCUSED

GODFREY OUMA.....2ND
ACCUSED

IBRAHIM OLUOCH OLUOCH.....3RD
ACCUSED

RULING

1. The three accused person herein Bonface Omondi Otieno alias Lang'o, Godfrey Ouma and Ibrahim Oluoch Oluoch have been charged with an offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars are that on the 31st October, 2024, in Ndagwa village, Ramunde Sub location, North East Ugenya Location, Ugenya sub County in Siaya County, jointly murdered one George Owino Otieno.
2. The accused persons denied the charges and thus a trial commenced in earnest wherein the prosecution called eleven (11) witnesses in support of its case.
3. The prosecution's case is that on 29/10/2024 Edwin Owino Oduor (PW1) saw the three accused herein descending on

the compound of the deceased and viciously assaulting him and then left him. Again on the 31/10/2024, the body of the deceased was found lying outside his house. It was the evidence of Bonface Onyango (PW2) that on 30/10/2024, he attended a meeting at the office of the assistant chief when he met the 3rd accused who informed him that the deceased had earlier broken the hand of his (deceased's) wife and that the wife wanted help. That the 3rd accused ferried him and another clan elder to the home of the deceased only for the deceased to inform them that the 1st accused and his children had assaulted him. That they took him to the office of the assistant chief and that the assistant directed that the deceased be taken to hospital.

4. It was the evidence of John Orange (PW3) who was a clan elder of Uchola village stated that he was at the office of the assistant chief on 30/10/2024 when the deceased's wife availed herself with a broken arm. That he went to the home of the deceased only to learn from him that one Lango and his children had assaulted him and left him for dead. That they went back to the office where the assistant chief directed that the injured lady be taken to hospital.
5. It was also the evidence of Lucy Akoth Oduor (PW4) that she accompanied her husband to the home of the deceased on 29/10/2024 when she saw the three accused herein assaulting the deceased and that the deceased punched the 1st accused in response to the assault.

6. Sasha Atieno Owino (PW5), a minor, stated that all the accused persons are well known to her as they are her relatives. That she saw the three accused herein together with another called Mbunu assaulting the deceased on 29/10/2024. That there were solar lights at the time which enabled her to identify the accused persons herein.
7. Stephen Omondi Orago (PW6) testified that he was called by his fellow clan elder to join him and handle a case of a certain lady who had been assaulted by her husband and suffered a broken arm. That they proceeded to the home of the deceased and found him in bad shape and who claimed that he had been assaulted by his nephews and their father the whole night. That they took the deceased to the office of the assistant chief and that the chief directed that he be taken to the police station.
8. Stephen Otieno Odweyo (PW8) stated that he witnessed the autopsy conducted on 22/11/2024.
9. Judith Adhiambo Ogutu (PW9) was the assistant chief of Ramunde Sub Location stated that she recalls on 29/10/2024 at 9.00PM she recalled a call from one Martha that the deceased had assaulted his wife and that she directed that she be taken to hospital. That the following day she visited the home of the deceased and learnt from his relatives that he had earlier assaulted his wife. That she went to her office only to find the deceased and his wife plus

clan elders in the company of the three accused persons herein.

10. The body of the deceased was later examined during an autopsy conducted by Dr Collins Otieno Oginga (PW10) on 22/11/2024 at Siaya County Referral Hospital. That externally, there were no obvious injuries. That internally, there was an infection in the abdomen especially on the gall bladder which had ruptured due to blunt force trauma and that it was the cause of death. The doctor produced the autopsy as Exhibit One.
11. No. 241336 IP Felix Kosgei (PW11) testified that he is the investigating officer. That their office received a report that the deceased had assaulted his wife and that the 1st accused mobilized people around the village and attacked the deceased who later succumbed to the injuries. That he visited the home of the deceased and met his wife one Anastacia Auma Otieno. That he also met the 1st and 2nd accused and another young man by the name of Mbunu. That he established that the deceased had assaulted his wife and that the 1st accused and his wife tried to intervene. That he also established that the following day three village elders visited the deceased and assaulted him before taking him to the assistant chief. That he also learnt that the 3rd accused was among the assailants. That he learnt from the accused persons and Anastacia that three village elders were responsible for assaulting the deceased.

12. At the close of the prosecution's case, both learned counsels opted to rely on the evidence adduced as regards the issue of whether the prosecution has established a prima facie case against the accused persons herein.
- 13.** At this stage of the proceedings, the prosecution was under a duty to establish a prima facie case against the two accused herein so as to warrant them to be placed on their defence. A prima facie case is one in which a reasonable tribunal, directing its mind to the law and evidence placed before it could convict an accused person if no evidence is offered by the defence to the contrary. Hence, what this means is that the evidence which has so far been tendered at this stage of the proceedings should be sufficient to sustain a conviction against the two accused persons herein if they elect to remain silent in defence. See **Bhat Vs Republic [1957] EA 332.**
14. After analyzing the entire evidence adduced at this stage of the proceedings, I find that the evidence of PW1, PW2 PW4, PW5, placed the three accused persons at the scene of crime. That being the position, iam satisfied that the accused persons were squarely placed at the scene of the crime and they must now offer an explanation as to how the deceased met his death.
15. In view of the foregoing observations, it is my finding that the prosecution has established a prima facie case against all three accused herein to require them to be called

upon to make a defence. Consequently, I find that each accused herein **Bonface Omondi Otieno, Godfrey Ouma and Ibrahim Oluoch Oluoch** have a case to answer and are now called upon to elect to conduct their defence in accordance with the provisions of section 306(2) of the Criminal Procedure Code.

Dated and delivered at Siaya, this 12th day of May 2026.

**D.KEMEI
JUDGE**

In the presence of :

**Bonface Omondi Otieno alias Lang'o.....1st
Accused**

Godfrey Ouma.....2nd Accused

Ibrahim Oluoch Oluoch.....3rd Accused

Odhiambo.....for All Accused

Soita.....for Prosecution

M/s Mourine.....Court Assistant