



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Mugo & another (Criminal Case 7 of 2016)  
[2025] KEHC 7202 (KLR) (29 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7202 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
CRIMINAL CASE 7 OF 2016  
EM MURIITHI, J  
MAY 29, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**CHRISTOPHER KIURA MUGO ..... 1<sup>ST</sup> ACCUSED**

**NICHOLAS KARANI KIBURU ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. This is a ruling on a case to answer pursuant to section 306 of the *Criminal Procedure Code*. The issue before the Court is whether there is prima facie evidence that the accused person(s) committed the offence of murder contrary to section 203 as read with 204 of the *Penal Code*, having regard to the elements of the offence of murder as observed in *R. v Nyambura & 4 Others* (2001) KLR 355, and approved by the Court of Appeal in *Antony Ndegwa Ngari v R* [2014] eKLR.

**The Principle of prima facie Case in Criminal Cases**

2. At this stage, the Court considers the prosecution evidence to establish whether a prima facie case exists, which as held in *Ramanlal T. Bhatt v R* (1957) EA 332, 335 is “one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.”
3. Where the Court finds that a prima facie case has been established as held in *Kibera Karimi v R* (1979) KLR 36 (Trevelyan & Todd JJ) so as not to prejudice the fair trial of the case by giving the impression that the court has already made up its mind without hearing the defence. See also *Festo Wandera Mukando v R* (1976 – 80) KLR 1626 and *Antony Njue Njeru v R*, Nairobi C.A. Cr. Appeal No. 77 of 2006 and the Kenya Judiciary Criminal Procedure Benchbook, 2018 at 99-100.



4. Where the court does not find that a prima facie case for the offence to have been established, a finding of not guilty is entered on the accused person pursuant to section 306 (1) of the [Criminal Procedure Code](#), and the accused is entitled to an acquittal, (see *Murimi v R* (1967) EA 542 and *Wachira v. R* (1975) EA 262), and the Court is required to give full reasons for the decision at this stage of case to answer, being a final decision for the trial court.

### **Finding**

5. In this case, upon considering the testimony of the six (6) prosecution witnesses, the Court finds that there is evidence that the accused persons committed the offence and, consequently, the Prosecution has established a prima facie case against the accused persons in this case.

### **Orders**

6. Accordingly, upon the finding that the Prosecution has established a prima facie case against the Accused persons for the offence of murder contrary to section 203 as read with 204 of the [Penal Code](#), the Court shall call on the Accused persons to make their defence in terms of section 306 (2) of the [Criminal Procedure Code](#).
7. The Accused's rights under section 306 (2) of the [Criminal Procedure Code](#) shall be explained.
8. The case shall be mentioned on 17/6/2025 for directions as to Defence hearing.  
Order Accordingly.

**DATED AND DELIVERED THIS 29<sup>TH</sup> DAY OF MAY 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances:

Mr. Mamba for DPP.

Mr. Rurige for 1st Accused.

Mr. Ndana for 2nd Accused

