



**Republic v Githaiga (Criminal Case 49 of 2015)
[2025] KEHC 6969 (KLR) (27 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 6969 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CRIMINAL CASE 49 OF 2015**

**JM NANG'EA, J
MAY 27, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ANTHONY KURIA GITHAIGA ACCUSED

RULING

1. The accused is charged with Murder Contary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of the information relating to the charge state that on 13th June 2015 at Ngashura area, Nakuru Town District, within Nakuru County he murdered David Mbugua Itemo. The accused entered plea of “Not Guilty” to the offence.
2. I have perused the evidence adduced by 3 witnesses the prosecution called and the defence Submissons “on no case to answer”. The Prosecution has not filed submissions in reply. At this stage, the prosecution is required to make out a prima facie case warranting putting of the accused on his defence. In the famous case of *Ramanlal T. Bhatt v Republic*, a *prima facie* case was defined as one in which the court could convict if no defence is offered by the accused. That is not to say, however, that the court will be prepared to convict in every case where the accused fails to give defence. The decision of the court depends on the facts and circumstances of each case while taking into account that the accused has the constitutional right to remain silent.
3. Having been so guided, I note that PW1 and PW3 who are spouses testified to witnessing the accused assaulting the deceased, their son, at their home. He was allegedly hit with a stick on the head and held by the throat to choke him. According to PW 1 , the Post-mortem examination of the deceased’s body showed swelling of the face around the head, bruises on the upper chest and upper right side of the clavicle and fracture of the bone of the upper neck among many other injuries. That he died of acute pneumonia caused by blunt trauma to the stomach. The Patholigist explained the cause of death as asphyxia due to pressure to the neck resulting from manual strangulation.



4. Without delving into further details at this stage, I find that the prosecution has made out a prima facie case and the accused is hereby put on his defence. It is established Judicial practice that no reasons ought to be given for such decision so that an impression is not created that the court has already made up its mind before hearing the defence case.

5. Ruling accordingly.

J. M. NANG'EA, JUDGE.

RULING DELIVERED THIS 27TH DAY OF MAY , 2025 IN THE PRESENCE OF:

The Prosecution Counsel, Ms Sang

The Defence Counsel, Ms Kusolo for Mr. Murunga

Accused, present

The Court Assistant, Jeniffer.

J. M. NANG'EA, JUDGE.

