



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Njagi (Criminal Case E009 of 2023)  
[2025] KEHC 11479 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11479 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT EMBU  
CRIMINAL CASE E009 OF 2023  
RM MWONGO, J  
JULY 30, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**LEATUS MURIUNGI NJAGI ..... ACCUSED**

**RULING**

**The Charge**

1. The accused faces the charge of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. Particulars of the charge are that on 24<sup>th</sup> March 2023 at Mwana wa Giti area in Gatondo village, Itabua location in Embu West subcounty within Embu County, the accused murdered Matilda Kathambi Karimi.
2. The accused took a plea of not guilty and the same was duly entered. The case proceeded to trial and the prosecution called twelve (12) witnesses who testified.

**Issue for Determination**

3. The issue for determination is whether a prima facie case has been established against the accused person.



## Analysis and Determination

4. This court is tasked under Section 306 of the *Criminal Procedure Code*, with making a ruling on whether or not the accused person has a case to answer. Further, whether the prosecution has established a prima facie case. The provision states:

“When the evidence of the witnesses for the Prosecution has been concluded, the court, if it considers that there is no evidence that the accused or any one of the several or any one of the several accused committed the offence shall, after hearing, if necessary, any arguments which the advocate for the prosecution or the defence may desire to submit, record a finding of not guilty.”

5. The court in the case of *Republic v Abdi Ibrahim Owl* [2013] KEHC 2122 (KLR), defined a prima facie case as follows:

“‘Prima facie’ is a latin word defined by *Black’s Law Dictionary* 8<sup>th</sup> Edition as, “sufficient to establish a fact or raise presumption unless disapproved or rebutted”. ‘Prima facie’ is defined by the same dictionary as “the establishment of a legally required rebuttable presumption.”

6. In other words, a prima facie case is a rebuttable presumption that the accused person is guilty of the offence. This is the position held at Section 211 of the *Criminal Procedure Code*. Further, in the case of *Ramanlal Trambaklal Bhatt v R* (1957) E.A 332 at 335, the court stated as follows:

“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’s case, the case is merely one in which on full consideration might possible be thought sufficient to sustain a conviction.” This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather, hopes the defence will fill the gaps in the Prosecution case.....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 defence”. A mere scintilla of evidence can never be enough; nor can any amount of worthless discredited evidence. It may not be easy to define what is meant by a, “prima facie case”, but at least it must mean one on which a reasonable, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence”.

7. It is improper at this stage of the trial for the Court to give a detailed analysis and reasoning in a ruling for a case to answer. The case would have been otherwise where the submission is on ‘no case to answer’ as the court would then be required to give its reasons for considering that the accused has no case to answer.

## Disposition

8. Considering the evidence by the prosecution in its entirety it is my view that a prima facie case has been established by the prosecution’s evidence. Accordingly, the accused person has a case to answer and shall be placed on his defense.
9. The accused is entitled to maintain silence; or to give an unsworn statement with or without witnesses, in which case he will not be cross examined; or he may give sworn evidence with or without witnesses in which case he will be cross examined.
10. Orders accordingly.



**DELIVERED, DATED AND SIGNED AT EMBU HIGH COURT THIS 30<sup>TH</sup> DAY OF JULY, 2025.**

**R. MWONGO**

**JUDGE**

Delivered in the presence of:

Accused Person Present in Court

Munene for Accused

Ms. Nyika for the state

Francis Munyao - Court Assistant

