



Embalabala (Criminal Case E003 of 2023) [2024] KEHC 7812 (KLR) (25 June 2024) (Ruling)

Neutral citation: [2024] KEHC 7812 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL CASE E003 OF 2023**

JN KAMAU, J

JUNE 25, 2024

**IN THE MATTER OF
EDITH ADISA EMBALABALA ALIAS KADOGO ACCUSED**

RULING

1. On 30th November 2023, the Prosecution closed its case after calling a total of six (6) Prosecution witnesses.
2. Both parties filed Written Submissions on the question of whether or not he had a case to answer. The Prosecution's Written Submissions were dated on 28th February 2024 and filed on 29th February 2024. It reproduced the evidence that was tendered during trial and submitted that it had established *prima facie* case against the Accused person.
3. The Accused Person's Written Submissions were dated 1st April 2024 but did not bear the court's stamp. However, in the interest of justice this court overlooked the said omission and viewed it as a technicality and proceeded to consider the same and written submissions. She reproduced the evidence on record and submitted that the Prosecution had failed to prove the ingredients of murder through direct evidence but had instead opted to rely on circumstantial evidence which did not also meet the threshold as was held in the case of *Sawe vs Republic* [2003] eKLR.
4. Having carefully considered the evidence of the said Prosecution witnesses and the Parties Respective Written Submissions, the court was of the opinion that a *prima facie* case had been established against the Accused person herein to warrant her being put on her Defence. She is hereby put on her defence.
5. It is so ordered.

DATED AND DELIVERED AT VIHIGA THIS 25TH DAY OF JUNE 2024

J. KAMAU

JUDGE

