



**Republic v SOO (Criminal Case E012 of 2023)
[2024] KEHC 11295 (KLR) (25 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11295 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E012 OF 2023
RE ABURILI, J
SEPTEMBER 25, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

SOO (MINOR) SUBJECT

RULING

1. The subject herein S.O.O is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code.
2. Particulars of information dated 7th June 2023 as amended and substituted vide information dated 7th February 2024 are that on the 27th day of February, 2023, at Abwao village, Bolo Location in Nyakach Sub-county, within Kisumu County, the subject murdered Florence Adhiambo Opondo.
3. The subject was mentally examined and found to be sound to stand trial.
4. The prosecution called 8 witnesses who testified on the alleged murder of the deceased.
5. At the close of the prosecution’s case, Mr. Oregoo counsel for the subject submitted that there was no evidence to warrant the subject being placed on his defence. That PW 1 – PW 6 were not at the scene of crime and that the testimony of PW 8 was not reliable because he does not say how he saw the accused stab the deceased.
6. That this witness contradicts PW 4 who said that he was not at the scene. That for a commotion that allegedly took one hour, it is not possible that no neighbour went to the scene, that no sword was recovered from the subject.
7. Counsel prayed for the acquittal of the subject at this stage.



8. The prosecution did not submit. They left the matter to the court to determine based on the evidence adduced.
9. I have considered all the above submissions and the evidence adduced by the 8 witnesses cumulatively. It is not in doubt that no weapon allegedly used in the alleged murder of Florence Adhiambo Opondo was recovered. It is also true that the incident took place at night and from the record, PW 4 and PW 8 were on the material day at the place where the alleged murder took place. PW 3 heard the noises and the verbal engagement between the subject herein and the deceased who was her grandmother, and what Samson, the subject herein allegedly told the deceased, should the said subject be arrested, with the subject questioning the deceased why she had reported him to the chief.
10. At this stage, this court is not expected to determine the guilt of the subject beyond reasonable doubt but to establish whether a prima facie case has been made out against him to warrant him being placed on his defence.
11. Having considered the entire evidence adduced, I am satisfied that a prima facie case is made out against the subject to warrant him be placed on his defence.
12. Accordingly, the subject S.O.O is found with a case to answer and is hereby placed on his defence.
13. The provisions of Article 50(2) (i) (k) (l) of *the Constitution* as read with Section 306 (2) of the Criminal Procedure Code are hereby read out and explained to the subject as to his rights which are guaranteed.
14. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF SEPTEMBER, 2024

R. E. ABURILI

JUDGE

