



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT BOMET**

**CRIMINAL CASE NUMBER 2 OF 2018**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JACKSON KIBET KIRUL.....ACCUSED**

**RULING**

1. The Accused was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the charge were that on the 16<sup>th</sup> day of December, 2017 at Kitoben village of Kitoben Location within Bomet County, murdered one Daisy Chepngetich.

2. The Accused pleaded not guilty to the charge and the case went into full trial in which the prosecution called a total of 5 witnesses.

3. At this stage of the proceedings what the court is required to do is to establish whether a *prima facie* case has been established. In the often - cited case of **Ramanal Trambaklal Bhatt V Republic (1957) EA 332**, the court of appeal defined a *prima facie* case thus: -

***‘...it may not be easy to define what is meant by a prima facie case but at least it must be one which a reasonable tribunal, properly directing its mind to the law and evidence could convict if no explanation is offered by the defence.’***

4. In analysing the evidence at this stage, I am not expected to give a detailed analysis and arrive at a firm finding on the guilt of the accused. I agree with the caution in **Republic V Karanja Kiria CR. Case No.13 of 2004 Nairobi [2009] eKLR** where Ojwang J, (as he then was) succinctly explained with respect to “a *prima facie* case” that: -

***“The question at this stage is not whether or not the accused is guilty as charged but whether there is such cogent evidence of his connection with the circumstances in which the killing of the deceased occurred, that the concept of prima facie case dictates as a matter of law that an opportunity be created this court for the accused to state his own case regarding the killing. The governing law on this point is well settled . . .***

***The Court of Appeal Criminal Appeal No. 77 of 2006, the expressed that too detailed analysis of evidence, at no case to answer stage is undesirable if the court is going to put the accused onto his defence as too much details in the trial court’s ruling could then compromise the evidentiary quality of the defence to be mounted.***

5. I have considered the evidence before me and the Prosecution’s submissions dated 3<sup>rd</sup> March, 2022. I am satisfied, without delving further into the evidence, that the prosecution has established a *prima facie* case against the Accused.

6. It is my finding that the accused person has a case to answer. He is called upon to elect the mode of his defence in accordance with **Section 306 of the Criminal Procedure Code**.

Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED AT BOMET THIS 31ST DAY OF MARCH, 2022.**

.....

**R. LAGAT-KORIR**

**JUDGE**

**Ruling delivered in the presence of Ms. Chirchir holding brief for Mr. J.K Koech for the Accused, Mr Muriithi for the state and Kiprotich (Court Assistant).**