



**Republic v Kalii (Murder Case 7 of 2017) [2022] KEHC 11753 (KLR) (22 April 2022) (Ruling)**

Neutral citation: [2022] KEHC 11753 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VOI  
MURDER CASE 7 OF 2017**

**JN ONYIEGO, J**

**APRIL 22, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**CHARLES MUTUKU KALII ..... ACCUSED**

**RULING**

1. The accused herein was arraigned before Voi high court on September 5, 2017 charged with the offence of murder contrary to section 203 as read with section 204 of the *penal code*. Particulars are that in between the night of August 22, 2017 and morning of August 23, 2017 at Njukini Trading Centre in Taveta Sub-county within Taita Taveta County murdered Gabriel Mutuku Kalii and Evanton Paul Kalii. Upon taking a plea of not guilty, prosecution called a total of 8 witnesses and closed their case.
2. The case partly proceeded before my sister Farah Amin and later I took over. My humble duty at this stage is to make finding whether the prosecution has established a *prima facie* case to warrant the court put accused on his defence.
3. It is *trite* that a *prima facie* case however does not mean that a case has to be proved beyond reasonable doubt. It simply means that the prosecution has established with a reasonable degree that there is a high possibility that the accused may have committed the offence. See *R Bhatt Vs Republic* ( 1957) EA 332 where the court held that a *prima facie* case does not mean a case proved beyond any reasonable doubt, since at this stage the court has not heard evidence for the defence.
4. From the evidence tendered before this court and exhibits produced, I am satisfied that the prosecution has established a *prima facie* case to warrant accused being called upon to make his defence. Accordingly, accused is put on his defence. Pursuant to section 306 of the *Criminal Procedure Code*, accused is explained to his rights that; he shall be at liberty to give sworn testimony or unsworn testimony or keep quiet and that if he has witnesses he wish to call be at liberty to call them.



**DATED SINGED AND DELIVERED VIRTUALLY AT MOMBASA THIS 22ND DAY OF APRIL,  
2022**

**J. N. OYINEGO**

**JUDGE**

