



**Republic v Nchebere & 2 others (Criminal Case 8 of 2016)
[2022] KEHC 11502 (KLR) (30 May 2022) (Ruling)**

Neutral citation: [2022] KEHC 11502 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 8 OF 2016
EM MURIITHI, J
MAY 30, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

SAMUEL KINYUA NCHEBERE 1ST ACCUSED

DANIEL KAREITHI NCHEBERE 2ND ACCUSED

DICKENS MUNGATHIA KARIGI 3RD ACCUSED

RULING

1. The accused persons are charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*, with the particulars of the offence being that that they “on the 3rd day of January, 2016 at Mulika Shopping Centre in Tigania East Sub-County within Meru County jointly with others not before court murdered Simon Mungathia Kagwima.” The accused persons pleaded not guilty to the charge and the matter proceeded to trial, the prosecution calling 7 witnesses.
2. At this stage of ruling on case to answer, that is whether there is established on the prosecution evidence a *prima facie* case, that is “one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence,” (see *Ramanlal T. Bhatt v. R* (1957) EA 332, 335), and having regard to the elements of the offence of murder, the Court considers that there is, in this case, in terms of section 306 (2) of the *Criminal Procedure Code*, evidence that the accused persons committed the offence.

ORDERS

3. Consequently, the accused shall be put on their defence in accordance with section 306 (2) of the Criminal Procedure Code, and their right to adduce evidence in defence in rebuttal shall be explained.
Order accordingly.



DATED AND DELIVERED ON THIS 30TH DAY OF MAY, 2022.

EDWARD M. MURIITHI

JUDGE

Appearances

Ms. B. Nandwa with Ms. Komu, Prosecution Counsel for the State.

Mr. Igweta Advocate for the Accused persons.

