



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Muchina & another (Criminal Case 87 of 2016)
[2022] KEHC 11141 (KLR) (27 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 11141 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 87 OF 2016
MM KASANGO, J
JULY 27, 2022**

BETWEEN

REPUBLIC PROSECUTOR

AND

SIMON NGOTHO MUCHINA 1ST ACCUSED

GEORGE MURAYA 2ND ACCUSED

RULING

1. The accused, Simon Ngotho Muchina and George Muraya are charged with the offence of murder of Joseph Wainaina Karanja deceased. They pleaded not guilty. The prosecution called 11 witnesses before closing its case.
2. The court, at this stage, is considering whether the accused have a case to answer. A case to answer was defined in the holding of the case *Republic vs. Joseph Shitandi & another* (2014) eKLR as follows:-

“A case to answer is a case where if the accused keeps quiet, the evidence of the prosecution should be such that a conviction will result.”
3. The procedure in determination whether indeed, the accused have a case to answer was discussed in the case *Republic vs. Stephen Chomba Kamau* (2021) eKLR thus:-

“Republic -v- Samuel Karanja Kiria (2009) eKLR Justice J.B Ojwang (as he then was) stated:-

‘The question at this stage is not whether or not the accused is guilty as charged but whether there is cogent evidence of his connection with the circumstances in which killing of deceased occurred. That the concept of prima facie case dictates as a matter of law that an opportunity created by 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 in Criminal Appeal No. 77/2006 expressed that too detailed analysis of evidence stage at no case to answer stage is undesirable if the court is going to put accused on his defence as too much details in the trial court's ruling could then compromise the evidentiary quality of the defence to be mounted.”

4. The evidence adduced by the prosecution suffices for the accused to be informed they have a case to answer. They are therefore informed they have a right to address the court as provided under section 306(2) of the *Criminal Procedure Code*. Accordingly, the accused are informed that they have a right to address the court either personally or by their advocates or to give evidence on their own behalf or to make unsworn statements and to call witnesses in their defence. The accused are now requested to make their election.

RULING DATED AND DELIVERED AT KIAMBU THIS 27TH DAY OF JULY, 2022.

MARY KASANGO

JUDGE

Coram:

Court Assistant : Mourice

For DPP : Mr. Kasyoka

For Accused :- Mr. Munene

Accused :

COURT

RULING delivered virtually.

MARY KASANGO

JUDGE

