



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Kirimi (Criminal Case 66 of 2013)
[2022] KEHC 15863 (KLR) (28 November 2022) (Ruling)**

Neutral citation: [2022] KEHC 15863 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 66 OF 2013
EM MURIITHI, J
NOVEMBER 28, 2022**

BETWEEN

REPUBLIC PROSECUTION

AND

JOSEPH MAINGI KIRIMI ACCUSED

RULING

1. The accused is charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. The particulars of the offence were that he “on the 7th day of July 2013 at Antuanduru Location, Kilenchune sub-location in Tigania East District within Meru County, murdered Vivian Waithera.” The accused person pleaded not guilty to the charge and the matter proceeded to trial, the prosecution calling 7 witnesses to prove the charge.
2. The court has considered as required under section 306 of the *Criminal Procedure Code* whether there is the evidence that the accused person committed the offence.

The principle of prima facie case in criminal cases

3. At this stage, the court considers the prosecution evidence to establish whether a *prima facie* case exists, which as held in *Ramanlal T. Bhatt v. R* (1957) EA 332, 335 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.” Where the court finds that a *prima facie* case has been established as held in *Kibera Karimi v. R* (1979) KLR 36 (Trevelyan & Todd JJ) so as not to prejudice the fair trial of the case by giving the impression that the court has already made up its mind without hearing the defence. See also *Festo Wandera Mukando v. R* (1976 – 80) KLR 1626 and *Antony Njue Njeru v R*, Nairobi C.A. Cr. Appeal No. 77 of 2006 and the Kenya Judiciary Criminal Procedure Benchbook, 2018 at 99-100. The Court is only required to give full reasons for the decision where it finds that a *prima facie* case is not established,



and the accused is entitled to an acquittal, see *Murimi v. R* (1967) EA 542 and *Wachira v. R* (1975) EA 262.

4. In this case, the Court considers that there is the evidence that the accused person committed the offence, having regard to the elements of the offence of murder.

ORDERS

5. Consequently, the accused shall be put on his defence in accordance with section 306 (2) of the [Criminal Procedure Code](#), and his rights thereunder shall be explained.

Orders accordingly.

DATED AND DELIVERED ON THIS 28TH DAY OF NOVEMBER, 2022.

EDWARD M. MURIITHI

JUDGE

Appearances

Ms. B. Nandwa Prosecution Counsel for the State.

Mr. Wamache Advocate for the Accused.

