



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT ELDORET**

**CRIMINAL CASE NO. 31 OF 2010**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**KIDRON KIPROP KOECH.....ACCUSED**

**RULING**

1. The accused *Kidron Kiprop Koech* faces a charge of Murder contrary to *Section 203* as read with *Section 204* of the *Penal Code*. It is alleged that on the 8<sup>th</sup> day of April, 2010 after midnight at Nandi Hills township, he murdered *Janet Chepkemboi*.

2. The accused denied the charges. The trial opened before my sister *Hon. Mshila J* on 31<sup>st</sup> January, 2012 who heard a total of seven witnesses. This court took over the proceedings on 13<sup>th</sup> October, 2014 and the accused elected to have the court continue with the hearing from where *Mshila J* stopped. I thereafter heard the last two prosecution witnesses.

3. At the close of the prosecution case, learned counsel for the accused *Mr. Miyienda* chose to make oral submissions under *Section 306 (1)* of the *Criminal Procedure Code*. Learned prosecuting counsel *Ms Oduor* chose not to make any submissions at that stage.

4. In his oral submissions, *Mr. Miyienda* urged the court to find that a prima facie case had not been established against the accused given the totality of the evidence adduced by the prosecution.

He argued that from PW8's evidence, the deceased's cause of death had not been conclusively established and a possibility existed that she was not murdered by the accused but that she could have committed suicide or died from other causes. He also contended that the prosecution relied on contradictory and inadequate evidence. He urged the court to find that the accused does not have a case to answer and acquit him at this stage.

5. I have carefully considered the entire evidence on record and the submissions made by learned counsel *Mr. Miyienda*. I find that at this stage, the court is only required to satisfy itself whether or not the prosecution had established a prima facie case against the accused which is sufficient to put him on his defence. And a prima facie case is one which a reasonable court properly directing its mind to the law and the evidence before it could convict if no explanation is offered by the defence. See: **Bhatt V Republic (1957) E.A 332.**

6. Having considered the evidence on record in its totality, I have come

to the conclusion that the evidence adduced by the prosecution in this case is sufficient and credible enough to establish a prima facie case against the accused person. It is therefore my finding that the accused has a case to answer and he is accordingly put on his defence under *Section 306(2)* of the *Criminal Procedure Code*.

It is so ordered.

**C.W GITHUA**

**JUDGE**

**DATED, SIGNED and DELIVERED** at **ELDORET** this 31<sup>st</sup> day of January 2017

In the presence of:-

The accused

Mr. Miyienda for the accused

Ms. Oduor for the Republic

Mr. Lobolia Court Clerk