

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL CASE NO. 11 OF 2012

(FORMERLY NO. 18 OF 2011).

REPUBLIC PLAINTIFF

V E R S U S

RONOH KHALIF AHMED DEFENDANT

RULING

This is a 2011 case which initially was registered in Nairobi as Nairobi High Court Criminal Case No. 18 of 2011. The case was later transferred to Garissa after the High Court opened the registry in Garissa in the same year 2011.

The accused has been brought to court on a charge of murder contrary to section 203 as read with section 204 of the Penal Code. Six witnesses have testified on behalf of the prosecution. The prosecution closed its case on 3rd of March 2016 and counsel for the defence and counsel for the prosecution elected not to make specific submissions on case to answer and left the issue to this court to decide.

The legal requirement is that an accused person should not be put on his defence in a criminal case unless at the close of the prosecution case, the prosecution has established a prima facie case against the accused person. A prima facie case is one where the court directing itself properly on the evidence on record may actually convict if the accused does not say anything in his defence. It does not mean that the court must convict on the evidence on record.

The provisions relating to putting an accused person on his defence in the High Court are contained in section 306 of the Criminal Procedure Code Cap 75.

Weighing the evidence on record and considering the fact that both the defence and the prosecution did not make submissions on a case to answer, I am of the view that the Prosecution from the evidence on record has established a prima facie case against the accused person herein. I thus put the accused on his defence and will proceed to explain to him the options available to him under section 306 of the Criminal Procedure Code.

Dated and delivered at Garissa this 20th July 2016.

GEORGE DULU

JUDGE