

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARISSA

CRIMINAL CASE NO. 20 OF 2012

REPUBLIC.....PROSECUTION

VERSUS

ABDI SHEIKH MOHAMED.....DEFENDANT

RULING

At the close of the case or evidence for the prosecution, learned defence counsel Mr. Onono made submissions on no case to answer. Counsel's submissions were exhaustive. Counsel contended that the prosecution did not establish any connection between the accused and the offence. There were also glaring gaps. As such the accused should not be put on his defence and should be released.

The prosecuting counsel Mr. Okemwa submitted that the evidence on record was sufficient to require that the accused be put on his defence. He submitted that the prosecution had tendered adequate evidence connecting the accused to the offence.

I have perused the evidence on record, part of which was recorded by my predecessor Justice Mutuku. Indeed the incident occurred at night. The evidence related to visual identification as well as the use of a gun.

In my view considering all the evidence on record, the prosecution has established a prima facie case against the accused. A prima facie case is merely a case where a court properly directing itself to the evidence on record may return a verdict of guilty. It is my finding that with the evidence on record this case, the prosecution has established a prima facie case against the accused.

I thus put the accused on his defence and proceed to explain to him the three options available to him.

Dated and delivered at Garissa this 23rd day of April, 2015

GEORGE DULU

JUDGE