

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA
Criminal Case 7 of 2004

REPUBLICPROSECUTOR

VS

TITUS EMADAU EKISA.....ACCUSED

RULING

The accused, Titus Emadau Ekisa, is before this court on information of the Attorney General of Kenya duly charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. It is said that on the 13th day of September 2003, at Amase Village, Amase Sub-location in Teso District within western province murdered Dimitila Ajula. The prosecution closed its case after tendering the evidence of 6 witnesses.

At the close of the prosecution's case, the learned advocates for the prosecution and the accused were invited to submit under Section 306(1) of the Criminal procedure Code. Mr. Okuta advocate for the accused was of the view that the prosecution had not established a prima facie case against the accused to enable this court to place the accused on his defence. The learned Principal State Counsel was of the contrary view www.kenyalaw.org Republic v Titus Emadau Ekisa [2005] eKLR 2 that the evidence of P.W.1, P.W2 and P.W3 connected the accused with the offence of murder.

I have considered the evidence tendered plus the submissions made by both learned counsels. After a careful analysis, I am of the view that there is sufficient evidence which shows that indeed the accused person committed the offence. He is consequently placed on his defence. At this stage the accused person should now state how he wants to conduct his defence. He should also indicate whether or not he will call witnesses. The accused person should also state whether or not he shall tender sworn evidence.

Dated and delivered this 3rd day of November 2005.

J. K. SERGON

JUDGE

In the presence of Mr. Ipapu holding brief Okuta for the accused. Mr. Onderi for the state.

COURT: Okuta arrives.

OKUTA: I am sorry I was late. The accused shall give sworn evidence without calling witnesses.

J. K. SERGON

JUDGE

Hearing of defence case on 30.11.2005. Assessors be paid today's allowances.

