



REPUBLIC OF KENYA



**Republic v Ngetich & 2 others (Criminal Case E011 of 2022)
[2025] KEHC 1876 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1876 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E011 OF 2022
JK SERGON, J
FEBRUARY 6, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

WINNIE CHEPNGENO NGETICH 1ST ACCUSED

COLLINS KIPKEMOI 2ND ACCUSED

DENNIS KIPKIRUI BETT 3RD ACCUSED

RULING

1. Winnie Chepngeno Ngetich, Collins Kipkemoi and Dennis Kipkurui Bett the Accused herein were charged with the information of Murder Contrary to Section 203 as read with 204 of the *Penal Code*. Particulars of the information dated the 12th day of June, 2020 are that on the night of the 25th day of July, 2022 at Kapkwen Village in Kipkelion Sub - County within Kericho County, murdered Ronald Kiprotich Bett.
2. On 10th August, 2022 the accused persons took plea and pleaded not guilty to the charge of murder. The prosecution called six (6) witnesses who testified in support of its case against the accused herein. The prosecution closed its case.
3. The Learned Counsel representing the accused urged the court to consider the evidence adduced by the prosecution in its ruling for case to answer.
4. Mr. Musyoki the Learned Senior Assistant Director of Public Prosecution on his part maintained that the prosecution had established a prima facie case against the accused beyond reasonable doubt.
5. This court has considered the prosecution's case at length. Pw. 1 stated that on the material day he received a call that his son who is the deceased had been killed, he went to the crime scene and summoned the police to the crime scene, the police conducted investigations which led to the arrest



of the accused persons. Pw. 2 stated that on the material day he heard some screams and proceeded to the scene, he found the accused persons at the crime scene. He inquired what had happened and he was informed that the deceased had an altercation with the 1st accused and he had threatened to burn her house. Pw. 3 testified that on the material day she heard screams but did not go to the scene because she was taking care of a small child. She stated that the deceased was her nephew. She stated that she was informed that the accused persons were at the crime scene. She stated that the deceased had a protracted dispute with the 1st accused, he had annihilated her animals and torched her houses. Pw. 4 stated that on the material day, he heard screams and went to the crime scene and found that the deceased had been killed and the accused persons who were at the crime scene. Pw. 5 a medical officer testified that he conducted an autopsy on the deceased and formed the opinion that the cause of death was hypoxia secondary to penetrating anterior cut due to the assault. Pw.6 the I/O stated that following the awful incident, he visited the crime scene and interrogated several people, his findings were that the 1st accused is the one who cut and severed the deceased's neck with the assistance of the co accused persons. I find that the prosecution witness accounts place the accused at the crime scene and there is circumstantial evidence that the accused assaulted the deceased who succumbed to the injuries he sustained as a result of the assault. I also find that there was motive, prosecution witnesses testified to the acrimonious relationship between the deceased and the 1st accused, the deceased had on a previous occasion, annihilated her animals and torched her houses.

6. Having considered the testimonies of the prosecution witnesses, the question is whether the evidence tendered establishes a prima facie case against the accused or whether the accused have a case to answer. In *Republic v Abdi Ibrahim Owi* [2013] eKLR, the court defined a prima facie case as follows: "Prima facie' is a Latin word defined by *Black's Law Dictionary* 8th Edition as, "sufficient to establish a fact or raise presumption unless disapproved or rebutted". 'Prima facie' is defined by the same dictionary as "the establishment of a legally required rebuttable presumption." whereas in *Ronald Nyaga Kiura v Republic*, the court held: " It is important to note that at the close of the Prosecution, what is required in law at this stage is for the trial court to satisfy itself that a prima facie case has been made out against the accused person sufficient enough to put him on his defence pursuant to the provisions of Section 211 of the *Criminal Procedure Code*..."
7. Having considered the material placed before me, I am satisfied that the prosecution has established a prima facie case for the purposes of a finding that the accused have a case to answer.
8. I accordingly place the accused persons on their defence, section 211 of the *Criminal Procedure Code* CAP 75 Laws of Kenya to be complied with.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 6TH DAY OF FEBRUARY, 2025.

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J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

P/Counsel – Maundu

Accused – Present

Accused – Kiprono for the Accused

