



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Sang & 2 others (Criminal Case 24 of 2019)
[2025] KEHC 1667 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1667 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 24 OF 2019
JK SERGON, J
FEBRUARY 6, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

PETER KIBET SANG 1ST ACCUSED

JOSEPHAT BII KIPRONO 2ND ACCUSED

PATRICK KIPROTICH BETT 3RD ACCUSED

RULING

1. Peter Kibet Sang, Josephat Bii Kiprono, Patrick Kiprotich 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 18th of June, 2019 are that on the 12th day of June, 2019 at Chebirirbei Village in Belgut Sub - County within Kericho County, murdered Eliud Cheruiyot Bett.
2. On 26th June, 2019 the accused persons took plea and pleaded not guilty to the charge of murder. The prosecution called seven (7) 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 there was some commotion, when he arrived at the crime scene, he found all the accused persons, while at the crime scene he learnt that the deceased had been stabbed by the 1st accused. The 2nd and 3rd accused accompanied the deceased to hospital whereas the 1st accused fled from the crime scene into



a nearby plantation. PW. 2 narrated the events of the material day, in his testimony he stated that he was in the vicinity when the 1st accused was apprehended and at the time of arrest the 1st accused had two knives. PW. 5 a medical officer testified on behalf of Dr. Peter Rotich who conducted an autopsy on the deceased and formed the opinion that the cause of death was hypovolemic shock secondary to haemorrhage due to a penetrative wound. PW.6 the I/O stated that following the awful incident, he visited the crime scene and interrogated several people. He stated that he got information that three suspects (accused) had been arrested in connection to the incident and handed over to Sigowet A.P Post. PW. 7 a law enforcement officer testified that his investigations revealed that the accused were intent on killing the deceased and they were arrested by members of the public at the Sigowet Sub - County Hospital. I find that the prosecution witness accounts place the accused persons 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.

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 this Court, I am satisfied that the prosecution has established a *prima facie* case for the purposes of a finding that the accused Persons have a case to answer.
8. Consequently, the accused persons are hereby placed 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.

J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

P/Counsel – Maundu

Kirui for the 3 Accused Persons

