



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Sang alias Gilbert (Criminal Case 12 of 2020)
[2025] KEHC 1685 (KLR) (6 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1685 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 12 OF 2020
JK SERGON, J
FEBRUARY 6, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

ROBERT KIPKURUI SANG ALIAS GILBERT ACCUSED

RULING

1. Robert Kipkurui Sang alias Gilbert the Accused herein was 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 28th day of May, 2020 at Kipranye Village in Soin/Sigowet Sub - County within Kericho County, murdered Festus Kipkurui Korir.
2. On 17th June, 2020 the accused person took a 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 person 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 who owns a changaa den testified that on the material day there were eight people at her house consuming changaa, when the accused abruptly peeped into her house and then disappeared, soon thereafter she heard a bang, a stone was thrown and the said stone hit the deceased accused and a scuffle ensued. Pw . 1 testified that while the scuffle ensued the accused menacingly threatened to kill her. Pw . 1 stated that she later learnt that the deceased succumbed while receiving medical treatment at a nearby Health Center. Pw . 2 who was at Pw . 1's house corroborated the same version of events, he narrated how the accused person



threw a stone into the house and the stone hit the deceased on the head and he bled profusely and soon thereafter the accused person fled. Pw . 6 the I.O testified he conducted instituted a thorough investigation of the events that led to the demise of the deceased and that when they got to the scene of crime they found that the accused had fled and that two days after they received information that the accused had surrendered himself at Kabudo Police Station in Nandi County. Pw . 7 a medical officer testified that he conducted an autopsy on the deceased and formed the opinion that the cause of death was severe head injury leading to cardiopulmonary arrest secondary to the assault. I find that the prosecution witness accounts place the accused at the crime scene and there is direct evidence that on the material day, 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 has 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 has a case to answer.
8. I accordingly place the accused person on his 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 – No Appearance for Miss Koech for the Accused

