



**Republic v Ngetich & another (Criminal Case E021 of 2023)
[2025] KEHC 2317 (KLR) (5 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2317 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE E021 OF 2023
JK SERGON, J
FEBRUARY 5, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

LEONARD KIPRONO NGETICH 1ST ACCUSED

GEOFFREY KIRUI KIPLANGAT 2ND ACCUSED

RULING

1. Leonard Kiprono Ngetich and Geoffrey Kirui Kiplangat the Accused herein were charged with the information of Murder Contrary to Section 203 as read with Section 204 of the [Penal Code](#). The Particulars of the information dated the 16th of November, 2023 are that on the 22nd day of October, 2023 at Cheloskei Village, Kebeneti Location, Soin/Sigowet Sub - County within Kericho County, murdered Daniel Kipngetich Chepkwony.
2. On 28th November, 2023 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 was in the company of the deceased. He stated that they were taking tea, when he heard some commotion outside his homestead. He said that Geoffrey, 2nd accused menacingly threatened to kill the deceased



- who was his father. Pw.1 further stated that the deceased made attempts to diffuse the tension and said that the underlying land dispute between him and his sons would be resolved by the chief.
6. Pw.1 stated that he was informed that the deceased had been injured and was in dire need of medical assistance.
 7. Pw.1 reiterated that the deceased was accosted by both accused persons who were in the vicinity. Pw. 2 stated that he received a report that the deceased had been assaulted by his sons and that he went to the crime scene.
 8. Pw.3 stated that he accompanied the deceased to Sigowet Hospital and that the deceased informed him that his son Geoffrey had accosted him.
 9. Pw. 4 a medical officer stated that he conducted an autopsy on the deceased's body and formed the opinion that the cause of death was survival spinal injury, lung contusion secondary to assault.
 10. Pw.5 a casual labourer stated that on the material day overheard Geoffrey trying to establish the whereabouts of the deceased and menacingly threatened to kill the deceased owing to a protracted land dispute between the deceased and his sons.
 11. He stated that the deceased was of the view that the land dispute would be resolved amicably by the village elders. He stated that he saw Geoffrey assault the deceased with a stick and Leonard attempting to move the body of the deceased from the crime scene, which was Pw.1's compound.
 12. Pw. 5 stated that he was interrogated by police officers about the incident and that he learned that both Geoffrey and Leonard were apprehended soon thereafter.
 13. Pw.6 the investigating officer stated that on the material day he received a report that there was an elderly man who was assaulted by his sons owing to a land dispute. He further stated that the man succumbed while undergoing treatment at Soin/Sigowet Sub - County Hospital and that the accused were apprehended soon thereafter.
 14. Upon a careful consideration of the evidence, this Court finds that the prosecution witness accounts place the accused persons at the crime scene and that there is direct evidence that the accused assaulted the deceased who succumbed to the injuries he sustained as he was seeking medical treatment at Soin/Sigowet Sub - County Hospital.
 15. 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.
 16. 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*..."
 17. 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.
 18. 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 5TH DAY OF FEBRUARY, 2025.

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J. K. SERGON

JUDGE

In the presence of:

C/Assistant – Rutoh

Prosecutor - Maundu

Accused Persons – Present in Person

Miss Kirui for the Accused Persons

