



**Republic v Moulid (Criminal Case 6 of 2019)
[2024] KEHC 655 (KLR) (15 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 655 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE 6 OF 2019
JN ONYIEGO, J
JANUARY 15, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

ABDI HASSAN MOULID ACCUSED

RULING

1. The accused person herein was charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of the offence being that on 29.05.2019 at around 1100hours at Bulla Suthi village in Daadab Sub County within Garissa County, murdered one Isnino Ismail Abdullahi. Upon arraignment in court, he pleaded not guilty and a plea of not guilty was entered.
2. The case proceeded for trial wherein the prosecution called Six (6) witnesses in support and thereafter closed its case.
3. Under Section 306 of the [Criminal Procedure Code](#) Cap 75 Laws of Kenya, this court has a duty, upon close of the prosecution's case, to make a ruling or a decision on whether an accused person has a case to answer or not. Section 306(1) provides that, when the evidence of the witnesses for the prosecution has been concluded and the court is of the opinion that there is no evidence that the accused person committed the offence should, after hearing, if necessary, any arguments which the advocate for the prosecution or the defence may desire to submit, record a finding of not guilty.
4. Under Section 306(2) on the other hand, when the evidence of the witnesses for the prosecution has been concluded and the court is of the opinion that there is evidence that the accused person committed the offence, the court should proceed to put the accused to his defence and whereby the accused is supposed to present evidence in his defence if he wishes.



5. As such, at this stage, this court's role is to consider the evidence on record and make a determination as to whether the same presents a *prima facie* case that would warrant this court to call upon the accused person to give his defence. Under section 211 of the *Criminal Procedure Code*, a *prima facie* case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebuttal is offered by an accused person. [See *Ramanlal Trambaklal Bhatt v R* [1957] E.A 332 at 334 and 335].
6. However, it is trite that, where the court is not acquitting the accused person at the close of the prosecution's case, there is no need for a reasoned ruling for a case to answer. Reasons should only be given where the submission of a no case to answer by the accused is upheld and the accused is to be acquitted. [See *Festo Wandera Mukando v Republic* [1980] KLR 103].
7. I have considered the evidence tendered by the prosecution in this matter as required of this court and from the entirety of the said evidence, it is my view that the prosecution has made a *prima facie* case against the accused person. He therefore has a case to answer and is put on his defence. He is however informed of his rights under section 211 of the *CPC* which includes; He has the right to give sworn testimony in which he be liable to cross examination by the prosecution; in the second alternative, he can give unsworn testimony in which the prosecution will not have a right to cross examine him or lastly, chose to be kept quiet. In either option, he shall have the right to call witnesses.

DATED, SIGNED AND DELIVERED THIS DAY 15TH DAY OF JANUARY 2024

J.N.ONYIEGO

JUDGE

