



**Director of Public Prosecutions v M'Muchui (Criminal Case
7 of 2018) [2024] KEHC 3260 (KLR) (14 March 2024) (Ruling)**

Neutral citation: [2024] KEHC 3260 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 7 OF 2018
TW CHERERE, J
MARCH 14, 2024**

BETWEEN

DIRECTOR OF PUBLIC PROSECUTIONS PROSECUTOR

AND

JOSEPH THARAI M'MUCHUI ACCUSED

RULING

1. Joseph Tharai M'Muchui (Accused) is charged with the offence of Murder contrary to Section 203 as read with Section 204 of the *Penal Code* in that he murdered one Philip Itharei Mugambi on 17th January, 2018 at Giakii Location in Imenti North Sub County within Meru County.
2. Accused denied committing the offence of and the prosecution managed to call three witness.
3. This court is therefore called upon to determine whether, whether a *prima facie* case has been established to warrant the accused person to be placed on her defence to answer to the charge of Murder.
4. It should be remembered that the legal onus is always on the Prosecution to prove its case beyond reasonable doubt, we cannot agree that a *prima facie* case is made out if, at the close of the prosecution's case, the case is merely one in which on full consideration might possible be thought sufficient to sustain a conviction. (See In *Ramanlal Trambaklal Bhatt v R* [1957] EA 332 at 335).
5. Having considered the testimonies of the three prosecution witnesses, I am satisfied that a *prima facie* case has been established to warrant Accused to be placed on his defence.
6. The provisions of Section 306(2) of the *Criminal Procedure Code* and Article 50(2)(i)(j)(k) of the *Constitution* are hereby explained to the accused person in the presence of his advocate Mr. Maheli.

DELIVERED AT MERU THIS 14TH DAY OF MARCH 2024



WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

Accused - Present

For the Accused - Ms. Thuo Advocate

For the State - Ms. Rita Rotich (PC 1)

