



**Republic v Njeru (Criminal Case E004 of 2023)
[2024] KEHC 4050 (KLR) (15 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4050 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE E004 OF 2023**

**JN ONYIEGO, J
APRIL 15, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

ALEX MUCHANGI NJERU ACCUSED

RULING

1. The accused herein faces a charge of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on 01.02.2023 at DRC area, Garissa Township in Garissa County unlawfully murdered one Stephen Muya.
2. He was arraigned before court on 13-2-2023 and upon the charges being read to him, he pleaded not guilty consequences whereof a plea of not guilty was entered.
3. The matter proceeded to hearing and the prosecution called a total of ten (10) witnesses in order to prove its case.
4. By virtue of section 306 of Criminal Procedure Code, this court has a legal 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. Under Section 306(1), 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 or any one of several accused 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.
5. Under section 306(2), 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 or any one or more of several accused persons committed the offence, the court should proceed to put the accused to his/ their defence and in such a circumstance, the accused is supposed to present evidence in defence.



6. 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 to give his defence. The Court in Ronald Nyaga Kiura vs Republic [2018] eKLR stated as follows (in relation to a prima facie case); -

“It is important to note that at the close of prosecution, what is required in law at this stage is for the trial court to satisfy itself that a prima facie 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*. 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. This is well illustrated in the cited Court of Appeal case of *Ramanlal Bhat vs Republic* [1957] Ea 332. At that stage of the proceedings the trial court does not concern itself to the standard of proof required to convict which is normally beyond reasonable doubt. The weight of the evidence however must be such that it is sufficient for the trial court to place the accused to his defence.”

7. However, it is trite that, where the court is not acquitting the accused person at the close of prosecutions' case, there is no need for a reasoned ruling for a case to answer. Reasons should only be given where the submissions of a no case to answer by the accused are upheld and the accused is to be acquitted. [See Festo Wandera Mukando vs The Republic [1980] KLR 103]
8. I have considered the evidence tendered by the prosecution in support of its case. From the entirety of the said evidence more particularly pw1-pw8, it is my view that the prosecution has made up a prima facie case against the accused person thus compelling this court to put the accused on his defence so as to rebut the same. The accused person therefore has a case to answer and is hereby placed on his defence.
9. He shall therefore be required to elect to give sworn testimony in which case he shall be subjected to cross examination by the prosecution; or make unsworn testimony in which case he shall not be cross examined; or keep quiet. In either case, he shall be at liberty to call witnesses.

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 15TH APRIL 2024.

J. N. ONYIEGO

JUDGE

