



REPUBLIC OF KENYA



**Republic v Otieno (Criminal Case E016 of 2023)
[2024] KEHC 3409 (KLR) (3 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 3409 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E016 OF 2023**

RE ABURILI, J

APRIL 3, 2024

BETWEEN

REPUBLIC PROSECUTOR

AND

JAPHETH OJWANG OTIENO ACCUSED

RULING

1. The accused person herein Japheth Ojwang Otieno is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#).
2. Particulars of the offence as per the information dated 23rd June 2023 are that on the 5th day of June 2023 at around 10:30hrs in Kibos Market in Kisumu East Sub County within Kisumu County, he murdered Alphonse Okuku Ongojo Kasera.
3. The accused person took plea on 6th July 2023 and denied committing the offence.
4. The trial commenced on 13th December 2023. The prosecution has called six (6) witnesses who have testified in support of its case which was closed on 1st February 2024.
5. What now remains is the determination of whether the prosecution have made out a *prima facie* case to warrant the accused person being placed on his defence.
6. At this stage, the court is not expected to analyze the evidence of each of the prosecution witnesses in order to reach the findings.
7. Having considered the evidence on record both oral and documentary, I am satisfied that the prosecution has made out a *prima facie* case against the accused person Japheth Ojwang Otieno who is hereby placed on his defence.



8. The provisions of Article 50(2)(i),(k) and (l) of *the Constitution* and Section 306(2) of the *Criminal Procedure Code* on the rights of the accused person are hereby explained to the accused person in the presence of his advocate whom the accused person is free to consult on the mode of defence that he prefers.

9. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 3RD DAY OF APRIL, 2024

R. E. ABURILI

JUDGE

