



**Republic v Lepakiyo (Criminal Case 49 of 2016)
[2024] KEHC 5866 (KLR) (23 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5866 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 49 OF 2016
EM MURIITHI, J
MAY 23, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

CHRISTOPHER JOHN LEPAKIYO ACCUSED

RULING

1. The accused is charged with the offence of murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of the offence were that he

“on the 13th day of August 2016 at Sordo village in Wamba Location, Samburu East Sub-County within Samburu County murdered Susan Lolmingan.”

The accused person pleaded not guilty to the charge and upon trial the prosecution called 4 witnesses to prove the charge.
2. The court has considered as required under section 306 of the [Criminal Procedure Code](#) whether there is the evidence that the accused person committed the offence. At this stage, the court considers the prosecution evidence to establish whether a *prima facie* case exists, which as held in *Ramanlal T. Bhatt v R* [1957] EA 332, 335 is

“one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.”
3. The court finds that a *prima facie* case has been established but does not give its detailed reasons so that, as held in *Kibera Karimi v R* [1979] KLR 36 (Trevelyan & Todd JJ), it does not prejudice the fair trial of the case by giving the impression that the court has already made up its mind without hearing the defence. See also [Festo Wandera Mukando v R](#) [1976 – 80] KLR 1626 and [Antony Njue Njeru v](#)



R, Nairobi C.A. Cr. Appeal No. 77 of 2006 and the Kenya Judiciary Criminal Procedure Benchbook, 2018 at 99-100.

4. The court considers that there is the evidence that the accused person committed the offence, having regard to the elements of the offence of murder.

Orders

5. Consequently, the accused shall be put on his defence in accordance with section 306 (2) of the Criminal Procedure Code, and his rights thereunder shall be explained.
6. Mention on 20/6/2024 for directions as to Defence hearing.

Order accordingly.

DATED AND DELIVERED ON THIS 23RD DAY OF MAY 2024.

EDWARD M. MURIITHI

JUDGE

Appearances:-

Ms B. Nandwa, Ms. Njeru & Mr. Magoma, Prosecution Counsel for the DPP.

Mr. Omari for Accused.

