



**Republic v Wako alias Guyo Mohamud Wako (Criminal Case  
92 of 2018) [2024] KEHC 5871 (KLR) (23 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5871 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
CRIMINAL CASE 92 OF 2018  
EM MURIITHI, J  
MAY 23, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ISA MOHAMUD WAKO ALIAS GUYO MOHAMUD WAKO ..... 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 29<sup>th</sup> day of September 2018 at Manyatta Shambole, Merti sub-County of Isiolo County within Eastern Region armed with dangerous weapon namely knife stabbed and murdered Guyo Karau Guyo.” The accused person pleaded not guilty to the charge and upon trial the prosecution called 9 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. In the language of section 306 of the *Criminal Procedure Code*, 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 23<sup>RD</sup> DAY OF MAY 2024.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances

Ms. B. Nandwa, Mr. Masila & Ms. Rita, Prosecution Counsel for the DPP.

Mr. Kaimenyi for Accused.

