



**Republic v Kinyanjui (Criminal Case 30 of 2017)
[2024] KEHC 7547 (KLR) (17 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 7547 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CRIMINAL CASE 30 OF 2017
DO CHEPKWONY, J
MAY 17, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

CYRUS KAMAU KINYANJUI RESPONDENT

RULING

1. The accused Cyrus Kamau Kinyanjui 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 are that:-

“The accused on 26th July, 2017 at Gachika Village, in Gatundu South County within Kiambu County murdered Grace Muthini Gathira.”

2. The accused was arraigned before court on 7th August, 2017 whereby he was remanded in custody until 23rd August, 2017 when he pleaded “Not Guilty” to the said offence.
3. The trial commenced on 6th June, 2019 whereby the prosecution called seven (7) witnesses being Gladwell Wanjiru (PW1), Doreen Chebii (PW2), Charles Osairi Panyakoo (PW3), Dr. Charles Kibicho Muturi (PW4), No 81803 PC Alex Ondieki (PW5), Margaret Wahu Maina (PW6), No 75103 PC Samuel Kahunga (PW7) in support of its case. The prosecution echoed its case and the question for determination at this stage is whether they have established a *prima facie* case to warrant the accused being placed on his defence.



4. This Ruling is therefore in respect of whether the accused has a case to answer or not. It is important to start with the definition of what amounts to a *prima facie* case which was defined by the court in the case of [Republic v Abdi Ibrahim Owl](#) [2013]eKLR as follows:-

“*prima facie*” is a Latin word defined by [Black’s Law Dictionary](#), 8th Edition as “Sufficient to establish a fact or raise a presumption unless disproved or rebutted”. “*prima facie* case” is defined by the same dictionary as “The establishment of a legally required rebuttable presumption”. To digest this further, in simple terms, it means the establishment of a rebuttal presumption that an accused person is guilty of the offence he/she is charged with. In [Ramanlal Trambaklal Bhatt v R](#) [1957] E.A 332 at 334 and 335, the court stated as follows:

“Remembering 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, the case is merely one “which on full consideration might possibly be thought sufficient to sustain a conviction.” This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather hopes the defence will fill the gaps in the prosecution case. Nor can we agree that the question whether there is a case to answer depends only on whether there is “some evidence, irrespective of its credibility or weight, sufficient to put the accused on his defence”. A mere scintilla of evidence can never be enough: nor can any amount of worthless discredited evidence...It is may not be easy to define what is meant by a “*prima facie* case”, but at least it must mean 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.”

5. From the above findings, the procedure of determining whether the accused has a case to answer should ensure that the details of evidence should not be so lengthy as to avoid compromising the quality of evidence that the defence will mount. This was discussed in the case of [Republic v Stephen Chomba Kamau](#) (2021) eKLR, where it was stated that:-

“[Republic v Samuel Karanja Kiria](#) [2009] eKLR Justice J.B Ojwang (as he then was) stated:-

“The question at this stage is not whether or not the accused is guilty as charged but whether there is cogent evidence of his connection with the circumstances in which killing of deceased occurred. That the concept of *prima facie* case dictates as a matter of law that an opportunity created by this court for the accused to state his own case regarding the killing. The governing law on this point is well settled ... The Court of Appeal in Criminal Appeal No 77/2006 expressed that too detailed analysis of evidence stage at no case to answer stage is undesirable it the court is going to put accused on his defence as too much details in the trial Court’s ruling could then compromise the evidentiary quality of the defence to be mounted.” Emphasis added.

6. The court has considered the evidence of all the prosecution witnesses but shall refrain from delving into the testimonies of each of the witnesses at this stage to avoid compromising with the evidence to be adduced by the accused.



7. It is the court's contention that it is satisfied that the prosecution has established a *prima facie* case for the purposes of a finding that the accused has a case to answer to the charge and the accused be and is hereby placed on his defence.

It is so ordered.

RULING DATED AND SIGNED AT KIAMBU THIS 17TH DAY OF MAY, 2024.

D. O. CHEPKWONY

JUDGE

