



**Republic v Kiprotich & another (Criminal Case 3 of 2015)
[2024] KEHC 5677 (KLR) (16 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5677 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 3 OF 2015**

**JK SERGON, J
MAY 16, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

DOMINIC KIRUI KIPROTICH 1ST ACCUSED

VICTOR CHERUIYOT YEGON 2ND ACCUSED

RULING

1. Dominic Kirui Kiprotich and Victor Cheruiyot Yegon the Accused herein were charged with the information of Murder Contrary to Section 203 as read with 204 of the Penal Code. Particulars of the information dated February 6, 2015, are that on the 1st day of January, 2015 at Chepseon Trading Centre, Kericho County, jointly murdered Victor Kipng'etich Mutai.
2. On February 12, 2015 the accused persons took plea and pleaded not guilty to the charge of murder.
3. The prosecution called six (6) witnesses who testified in support of its case against the accused persons herein. The prosecution closed its case. Mr. J. K. Mutai, the Learned Counsel representing the accused persons requested to file written submissions. The Learned Counsel was given twenty one (21) days to file written submissions. At the time of writing this ruling the Learned Counsel had not filed written submissions.
4. The matter is hereby coming for a ruling on case to answer.
5. I have considered the prosecution's case and I find that the prosecution has sufficiently proven the ingredients for the offence of murder. Firstly, the death of the deceased is not disputed, he was found dead on the roadside after having sustained several injuries. An autopsy was conducted and the findings were that the cause of death of the deceased was subdural hematoma secondary to trauma of the head (deep cut to the left ear). Secondly, there are various prosecution witnesses linking the accused



persons' unlawful actions to the demise of the deceased. On the material day, several prosecution witness accounts place the accused persons at the crime scene which was initially at Platinum Bar at Chepseon Trading Center where there was an altercation between the deceased and the accused. Furthermore, there are several prosecution witnesses that testified that the accused persons waylaid the deceased after the altercation at the Bar, they accosted him further and he subsequently succumbed to the injuries and was found dead by the roadside the next day. Pw. 2 the father of the deceased testified that a few days after the son's demise, some elders were sent by the parents of the suspects, the suspects had confessed and they were thereby seeking forgiveness. Subsequently, the suspects were apprehended, arraigned in court and charged with the instant offence.

6. In *Ronald Nyaga Kiura v Republic* [2018] eKLR Limo J. observed as follows;

“It is important to note that at the close of prosecution, what is required in law at 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.”

7. Having considered the material placed before this Court, I am satisfied that the prosecution has established a *prima facie* case for the purposes of a finding that the accused person has a case. The Accused therefore has a case to answer.

8. Accordingly, I place the accused person on his defense.

DATED, SIGNED AND DELIVERED AT KERICHO THIS 16TH DAY OF MAY, 2024.

J.K. SERGON

JUDGE

In the presence of:

C/Assistant - Rutoh

Prosecutor – Mr. Musyoki

Accused – Present in Person

Kirui holding brief for J. K. Mutai for Accused

