



**Republic v Keynan (Criminal Case E010 of 2023)
[2024] KEHC 7097 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7097 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE E010 OF 2023**

**JN ONYIEGO, J
JUNE 13, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

ABDIQADAR ABDULLAHI KEYNAN ACCUSED

RULING

1. The accused person herein is facing a charge of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on July 14, 2023 at Hagadera refugee camp, Hagadera of Fafi Sub County within Garissa County unlawfully murdered Mohammed Noor.
2. Having been arraigned in court on 31st day of July 2023, and upon the charges being read to him, he pleaded not guilty. Consequently, a plea of not guilty was entered. The matter then proceeded to hearing and the prosecution called a total of nine (9) witnesses in order to prove its case.
3. By virtue of section 306 of Criminal Procedure Code, this court has a legal duty, upon close of the prosecution’s case, to make a ruling or a decision on whether the accused person has a case to answer or not. Under Section 306(1), when the evidence of the witnesses for the prosecution has been concluded and the court is of the opinion that there is no evidence that the accused or any one or more of several accused persons committed the offence should, after hearing, if necessary, any arguments which the advocate for the prosecution or the defence may desire to submit, record a finding of not guilty.
4. Section 306(2) of the CPC further provides that, when the evidence of the witnesses for the prosecution has been concluded and the court is of the opinion that there is evidence that the accused person or any one or more of several accused persons committed the offence, the court should proceed to put the accused to his/ their defence and in such a circumstance, the accused is supposed to present evidence in defence.



5. As such, at this stage, this court's role is to consider the evidence on record and make a determination as to whether the same presents a *prima facie* case that would warrant it call upon the accused to give his defence. In the case of *Republic v Abdi Ibrahim Owl* [2013] eKLR, the court stated as follows (in relation to a *prima facie* case); -

“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.

6. However, it is trite that, where the court is not acquitting the accused person at the close of prosecutions' case, there is no need for a reasoned ruling for a case to answer. Reasons should only be given where the submissions of a no case to answer by the accused are upheld and the accused is to be acquitted. [See *Anthony Njue Njeru v Republic* [2006] KLR 103].
7. I have considered the evidence tendered by the prosecution in support of its case more particularly the testimony of PW1, PW2, and PW7. From the entirety of the said evidence, it is my view that the prosecution has made up a *prima facie* case against the accused person which requires the accused person to be placed on his defence so as to rebut the same. The accused person therefore has a case to answer and is hereby placed on his defence.
8. Accordingly, accused person is at liberty to give sworn testimony in which case he will be subjected to cross examination by the prosecution. Alternatively, he can give sworn testimony whereby he will not be subjected to cross examination. Lastly, he can opt to keep quiet. In either case, he shall be at liberty to call witnesses.

DATED, SIGNED AND DELIVERED OPEN COURT AT GARISSA THIS 13TH DAY OF JUNE 2024

J. N. ONYIEGO
JUDGE

