



**Republic v Otieno (Criminal Case E004 of 2021)
[2024] KEHC 7373 (KLR) (11 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7373 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E004 OF 2021
RE ABURILI, J
JUNE 11, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

COLLINS OTIENO OTIENO ACCUSED

RULING

1. The accused Collins Otieno Otieno is charged with the offence of murder contrary to Section 203 as read with section 204 of the [Penal Code](#).
2. Particulars of the Information dated 3rd February 2021 are that on the 18th day of January 2021 at Kanyagwal Location, Nyando Sub-county within Kisumu County, he murdered Everlyne Akoth Otieno.
3. The accused denied committing the offence charged.
4. The prosecution have called ten (10) witnesses who have testified in support of their case and the question now is whether a prima facie case has been established to warrant the accused to be placed on his defence.
5. A prima facie case is established in criminal cases where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict but for the right of the accused person to adduce and challenge that evidence, and the right to remain silent as well as the right not to give any self-incriminating evidence.
6. It follows that at this stage, the court cannot delve deep into the merits of the evidence adduced as to do so, where it is of the view that a prima facie case is established, might prejudice the accused person.
7. I have considered the evidence of the ten prosecution witnesses and the exhibits produced.



8. I am satisfied that a *prima facie* case is established against the accused person Collins Otieno Otieno who is hereby found with a case to answer and is placed on his defence.
9. The provisions of article 5092) (i) (k) (l) of the [Constitution](#) as read with section 306(2) of the [Criminal Procedure Code](#) are hereby read and explained to him in Dholuo language in the presence of his advocate Ms. Omollo.
10. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 11TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

