



Republic v Ouko alias Mzungu alias Nelly Omondi Chore (Criminal Case E002 of 2020) [2024] KEHC 6441 (KLR) (4 June 2024) (Ruling)

Neutral citation: [2024] KEHC 6441 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL CASE E002 OF 2020
RE ABURILI, J
JUNE 4, 2024**

BETWEEN

REPUBLIC PROSECUTOR

AND

BENARD OMONDI OUKO ALIAS MZUNGU ALIAS NELLY OMONDI CHORE ACCUSED

RULING

1. The accused person Benard Omondi Ouko alias Mzungu alias Nelly Omondi Chore is charged with the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*.
2. Particulars of the offence as per information dated 13th October 2020 are that on the 24th August, 1019, at Lela Sub-location, Nyando Sub-county within Kisumu County, he murdered one Sylvester Stephen Onyango.
3. The accused person took plea on 11th November 2020 denying that he committed the offence charged.
4. I took over the hearing of this case on 16th May 2023 after the elevation of F. A. Ochieng J was elevated to Court of Appeal.
5. The prosecution and the defence counsel both consented to the case proceeding from where Justice Ochieng had left it, subject to the accused person reserving his right to recall any of the witnesses who had testified to be cross examined. The burden of proof lies on he who alleges.
6. In this case, at this stage the burden lies on the prosecution to establish a prima facie case against the accused person.
7. I have considered the evidence of the 8 prosecution witnesses and the exhibits produced. I am satisfied that a prima facie case has been established against the accused person to warrant him to be placed on his defence.



8. Accordingly, the accused person Benard Omondi Ouko alias Mzungu alias Nelly Omondi Chore is hereby found with a case to answer and is hereby placed on his defence.
9. The provisions of Section 306(2) of the *Criminal Procedure Code* and Article 50 (2) (i), (k) and (l) of *the Constitution* are explained to the accused person in the presence of his advocate Mr. Onsongo.
10. I so find and hold.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 4TH DAY OF JUNE, 2024

R. E. ABURILI

JUDGE

