



Republic v Achala (Criminal Case 19 of 2019) [2023] KEHC 17994 (KLR) (2 June 2023) (Ruling)

Neutral citation: [2023] KEHC 17994 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CRIMINAL CASE 19 OF 2019
RN NYAKUNDI, J
JUNE 2, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

DAVID SILOBA ACHALA ACCUSED

RULING

1. The accused person was 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 on February 26, 2019, at Kapsoya estate, within Uasin Gishu County, the accused person murdered Fiona Kisuya.
2. The question that this court has to deal with and answer at this stage is, whether based on the evidence before this Court, the Court after properly directing its mind to the law and the evidence may, as opposed to will, convict if the accused chose to give no evidence. In *Ronald Nyaga Kiura vs Republic [2018] eKLR* the court held as follows:

' It is important to note that at the close of prosecution, what is required in law at this 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. This is well illustrated in the cited Court of Appeal case of RAMANLAL BHAT -VS- REPUBLIC [1957] EA 332. At that stage of the proceedings the trial court does not concern itself to the standard of proof required to convict which is normally beyond reasonable doubt. The weight of the evidence however must be such that it is sufficient for the trial court to place the accused to his defence.'



3. Under section 306 of the *Criminal Procedure Code* Cap 75 Laws of Kenya, this court has a duty, upon close of the prosecution's case, to make a ruling or a decision on whether an 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 person 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. Having considered the material placed before me I am satisfied that the prosecution has established a prima facie case for the purposes of a finding that the accused has a case to answer. As to whether the said evidence on record meet the threshold for convicting the accused is a matter that will have to be considered at the end of the trial.

I accordingly place the accused on his defence.

DELIVERED VIA E-MAIL DATED AND SIGNED AT ELDORET ON THIS 2ND DAY OF JUNE 2023

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R. NYAKUNDI

JUDGE

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