



**Republic v Aden & another (Criminal Case 9 of 2020)  
[2023] KEHC 19717 (KLR) (7 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 19717 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT GARISSA  
CRIMINAL CASE 9 OF 2020  
JN ONYIEGO, J  
JULY 7, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**ABDIKARIM AHMED ADEN ..... 1<sup>ST</sup> ACCUSED**

**DAHIR HARUN BULLE ..... 2<sup>ND</sup> ACCUSED**

**RULING**

1. Accused persons were arraigned before this court on September 28, 2020 jointly charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code (Cap 63) Laws of Kenya. Particulars are that on September 3, 2020 at Hagadera Refugee Camp in Fafi Sub-County within Garissa County jointly and unlawfully murdered Mohamed Ali Mohamed.
2. After returning a plea of not guilty, the matter proceeded to trial with the prosecution calling 8 witnesses.
3. I have considered the evidence tendered by the prosecution and cross examination thereof. At this stage, the duty of the Court is to make a finding whether the evidence tendered by the prosecution is sufficient to establish a *prima facie* case to call upon the accused to tender his defence.
4. In the case of *R Bhatt Vs Republic* (1957) EA 332, the Court held that a *prima facie* case does not mean a case proved beyond any reasonable doubt, since at this stage, the court has not heard the evidence for the defence. Taking the totality of the evidence by the prosecution, I am satisfied that the prosecution has established a *prima facie* case to warrant accused persons being called upon to tender their defence pursuant to Section 306 of CPC.
5. Consequently, accused persons shall elect to give sworn or unsworn testimony or keep quiet. They shall however have a right to call witnesses if any.



DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 7<sup>TH</sup> DAY OF JULY 2023

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J.N. ONYIEGO

JUDGE

