



**Republic v Mohamud (Criminal Case E004 of 2022)  
[2023] KEHC 19837 (KLR) (6 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 19837 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT GARISSA  
CRIMINAL CASE E004 OF 2022**

**JN ONYIEGO, J**

**JULY 6, 2023**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**NOOR KORWA MOHAMUD ..... ACCUSED**

**RULING**

1. Accused person was arraigned before this court on March 3, 2022, 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 3/9/2020 at Hagadera Refugee Camp in Dadaab Sub-County within Garissa County murdered Ali Sirat Mohamud.
2. After returning a plea of not guilty, the matter proceeded to trial with the prosecution calling 5 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 v 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 person being called upon to tender his defence pursuant to Section 306 of Criminal Procedure Code.
5. Consequently, accused shall elect to give sworn or unsworn testimony or keep quiet. He shall however have a right to call witnesses if any.

**DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 6<sup>TH</sup> DAY OF JULY 2023**



.....  
**J.N. ONYIEGO**  
**JUDGE**

