



**Republic v Adipo (Criminal Case E023 of 2024)
[2024] KEHC 15670 (KLR) (9 December 2024) (Ruling)**

Neutral citation: [2024] KEHC 15670 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
CRIMINAL CASE E023 OF 2024**

**DK KEMEL, J
DECEMBER 9, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

DANIEL OMA ADIPO ACCUSED

RULING

1. The accused herein Daniel Ouma Adipo has been charged with an offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars are that on the 24th day of April 2024, at Simenya village Rang’ala Location within Ugunja Sub County in Siaya County murdered one Nereah Auma Arony.
2. The prosecution called four witnesses in support of its case.
3. The prosecution’s case is that the family of the accused and deceased had been involved in a land dispute for quite some time and that their relationship had strained. That on the material date, the deceased was walking home in company of her sister (PW1) when the accused herein crept from behind them as they walked and suddenly hit the deceased on the back of the head killing her suddenly. The accused attempted to turn the same weapon on PW1 who recognized him forcing him to drop the weapon and fled from the scene. Police officers visited the scene and collected the body and later an autopsy was conducted on the body by Dr. Bruno Okal (PW4) who formed the opinion that the cause of death was severe brain injury secondary to blunt trauma to the head. He produced the autopsy report as exhibit 2 while the murder weapon namely a piece of wood with one end burnt was produced by the investigating officer (PW3) as exhibit 1.
4. At the close of prosecution’s case, parties sought to rely on the evidence so far tendered on the issue of whether the prosecution has established a prima facie case against the accused to warrant him to be placed on his defence.



5. I have considered the evidence adduced at this stage of the proceedings. The issue for determination is whether the prosecution has made out a prima facie case against the accused herein so as to require him to be called upon to make a defence in line with the provisions of Section 306 (2) of the Criminal Procedure Code.
6. The duty to prove the guilt of the accused is always upon the prosecution to discharge and which must be beyond reasonable doubt. A prima facie case has been described as one in which a reasonable tribunal directs its mind and the law placed before it can convict an accused if no evidence is offered to the contrary by the defence. In a nutshell what this means is that the evidence so far tendered at this stage should be sufficient to sustain a conviction against the accused if he elects to remain silent in defence. (See Bhatt Vs. R.) 1957 EA 332)
7. Upon perusal of the entire evidence tendered at this stage, I find the evidence of PW1 has clearly placed the accused at the scene of crime and hence the accused must now offer an explanation as to how the deceased met her death.
8. In view of the foregoing observations, it is my finding that the prosecution has established a prima facie case against the accused herein. I find that the accused herein Daniel Ouma Adipo has a case to answer and that he is now called upon to elect to conduct his defence in line with the provisions of Section 306 (2) of the Criminal Procedure Code.

RULING DATED AND DELIVERED AT SIAYA THIS 9TH DAY OF DECEMBER, 2024.

D. KEMEI

JUDGE

In the presence of:

Daniel Ouma Odipo.....Accused

M/s Achieng.....for Accused

M/s Mumu.....for State

Ogendo.....Court Assistant

