

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

CRIMINAL CASE NO. 36 OF 2016

REPUBLIC.....PROSECUTION

VERSUS

SILAS MUKIRA.....1ST ACCUSED

STANLEY THIAINE.....2ND ACCUSED

RULING ON CASE TO ANSWER

1. The accused persons were jointly charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The prosecution's case is that on 24th June 2016, at about 22.00 hours, the deceased and his wife Esther Makena were in the kitchen when they were attacked by a group of four people two of whom are the accused persons and the deceased was killed. Both accused persons pleaded not guilty to the charge and the matter proceeded to trial, the prosecution calling 5 witnesses to prove the charge.

2. The court has considered as required under section 306 of the Criminal Procedure Code whether there is the evidence that the accused persons or any of the accused persons committed the offence. At this stage, however, the court is required to be satisfied only that a *prima facie* case exists as held in **Ramanlal T. Bhatt v. R** (1957) EA 332, 335 a *prima facie* case is "one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence."

3. Upon considering the evidence presented herein by the Prosecution, without exhaustive discussion of the merits so as not to prejudice the fair trial of the case as counseled by **Kibera Karimi v. R** (1979) KLR 36, and **Festo Wandera Mukando v. R** (1976 – 80) KLR 1626, the court find that the Prosecution has established a *prima facie* case against the two accused persons.

4. Consequently, the accused shall be put on their defence in accordance with section 306 (2) of the Criminal Procedure Code, and their rights thereunder shall be explained to them.

Order accordingly.

DATED AND DELIVERED THIS 17TH DAY OF SEPTEMBER 2021.

EDWARD M. MURIITHI

JUDGE

Appearances

MS B. Nandwa Prosecution Counsel for the State

Mr. Atheru Advocate for the accused persons.