

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

CRIMINAL CASE NO. 22 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

EMILIO NJIRU KANENE.....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 being that on the 13th and 14th day of September, 2016 at an unknown place within Embu County, jointly with others murdered Jane Wambogo Njiru.
2. The accused person was arraigned in court on 12.10.2016 and he pleaded not guilty and a plea of not guilty entered against him.
3. The matter proceeded to hearing and the prosecution called a total of five (5) witnesses in order to prove its case after which the prosecution closed its case.
4. This court has a duty to make a ruling upon the conclusion of the prosecution's case on whether the accused person has a case to answer or not. When the evidence of the prosecution's witnesses has been concluded and the court has formed an opinion that there has not been presented evidence that the accused committed the offence should after hearing any arguments from either the prosecution or advocate of the accused person enter a finding of not guilty. (See **Section 306(1) of the Criminal Procedure Code**).
5. On the other hand, should the court be of the opinion that a *prima facie* case has been established against the accused person, the court then should proceed to put the accused person on his defence. (See **Section 306(2) of the Criminal Procedure Code**). At this point, this court's role is to consider the evidence on record and make a determination whether a prima facie case has been established to warrant the accused person to be placed on his defence.
6. Section 211 of the Criminal Procedure Code stipulates that a prima facie case is established where the evidence adduced by the prosecution is sufficient for the court to return a guilty verdict if no other explanation is offered by the accused person. This was the court's view in the case of **Ronald Nyaga Kiura v R [2018] eKLR**.
7. I adopt the holding in the case of **Festo Wandera Mukando v Republic [1980] KLR 103** where the court pronounced itself that there is no need for a reasoned ruling for a case to answer. It is trite that reasons should only be given where the submission of no case to answer by the accused is upheld and the accused is to be acquitted.
8. This court have considered the evidence tendered by the prosecution in this matter and from its entirety, the prosecution has established a *prima facie* case against the accused person.
9. I hereby order that he be placed on his defence.
10. It is so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 17TH DAY OF NOVEMBER, 2021.

L. NJUGUNA

JUDGE

.....for the Accused

.....for the State