

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CRIMINAL CASE NO. E011 OF 2021[MURDER]

CORAM: HON. R.E. ABURILI, J

STATE.....PROSECUTION

VERSUS

JACK OMOLLO JANENO.....ACCUSED

RULING ON CASE TO ANSWER

1. The accused person herein Jack Omollo Janeno is charged with the offence of Murder contrary to **Section 203 as read with Section 204 of the Penal Code**.
2. Particulars of the information dated 2nd June 2021 are that on the 13th day of April, 2021 at Nyangoma sub location, in Central Sakwa location in Bondo Sub County within Siaya County, he murdered one Ishani Shanel.
3. The accused took Plea on 9/6/2021 before Hon. Jacklyne Kamau Judge of Kisumu High Court as this court was on leave. He pleaded not guilty to the charge. The hearing commenced on 21/9/2021. The prosecution called five witnesses.
4. As required by law, once the Prosecution closes its case, the court is to determine whether the evidence so far adduced establishes a prima facie case against the accused person to warrant him being placed on his defence.
5. In this case the Prosecution closed its case on 7/12/2021 and Mr. Otongo advocate intimated to court that he was to file written submission on no case to answer. The court granted him time to do so but as at the time of writing this ruling, a day to the delivery, no such submissions are filed.
6. I have considered the evidence by each of the five prosecution witnesses.
7. The burden of proof lies on the Prosecution and that burden does not shift. The Prosecution at this stage are expected to establish a prima facie case against the accused person and not to prove their case beyond reasonable doubt.
8. On the other hand, since the matter has not come to an end, this court, if persuaded that the Prosecution has established a prima facie case against the accused person, should not delve deep into the evidence adduced and its veracity as that would prejudice the accused person if placed on his defence.
9. In this case, I am satisfied that a prima facie case has been established to warrant the court place the accused person on his defence to answer the charge of Murder as charged.
10. Accordingly, the accused herein Jack Omollo Janeno is found with a case to answer and is placed on his defence. The provisions of **Section 306 (2) of the Criminal Procedure Code and Article 50(2)(i)(k)(l)** of the Constitution are hereby complied with and explained to the accused person.
11. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA, THIS 14TH DAY OF DECEMBER 2021

R.E. ABURILI

JUDGE