

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAROK

CRIMINAL CASE NO. 30 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

FREDERICK KIPKIRUI KORIR.....ACCUSED

RULING

1. The issue before me is whether or not a *prima facie* case has been made out against the accused, so as to require him to be put on his defence in terms of section 306 (2) of the Criminal Procedure Code (Cap 75) Laws of Kenya.
2. The accused in charged with the murder of Charles Rotich, which is an offence under section 203 as read with section 204 of the Penal Code (Cap 63) Laws of Kenya.
3. At the close of the prosecution case, counsel for the accused, Messrs Ocheo-Onduso made a submission of no case to answer, which was supported with authorities including but not limited to ***Ramanlal Trambakal Bhatt v R [1957] EA 332***, in which the court held that a *prima facie* case is made out if a tribunal properly directing its mind on the law and the evidence could convict, if no explanation is offered by the defence. Counsel further submitted that the evidence of the prosecution witnesses was not corroborated, which counsel pointed out was circumstantial in nature.
4. The prosecution in response submitted that a *prima facie* had been made out against the accused to warrant the him being put on his defence. They cited ***Ramanlal Trambakal Bhatt v R***, *supra*, amongst other authorities. They furthermore, submitted that two prosecution witnesses namely Robert Kipyegon (Pw 1) and Robert Kipyegon Mutai (PW 3) gave direct eyewitness evidence, which implicates the accused.
5. I have considered the totality of the evidence in the light of the applicable law. As a result, I find that the accused has a case to answer.
6. He is therefore put on his defence in terms of section 306 (2) of the Criminal Procedure Code (Cap 75) Laws of Kenya.

Ruling signed, dated and delivered at Narok in open court this 3rd day of December, 2019 in the presence of Mr. Omwega for the Republic and Mr. Onduso for the accused.

J. M. Bwonwong'a

Judge

3/12/2019