



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL CASE NO. 51 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

GEOGINDAH SIGNH.....ACCUSED

R U L I N G

Geogindah Singh (herein referred to as the accused) is charged with murder contrary to section 203 as read with section 204 of the penal code. The particulars of the offence are that on the 23rd September, 2013 at Vucheseni Village, Shingoto Sub-Location, Shibuye Location of Kakamega East District within Kakamega County he murdered one **Colletta Abukwa Upala** (herein referred to as deceased).

Only one witness, Roda Chetina Mukhanda PW1 testified for the prosecution in the case. Her evidence was that on the material day at 5pm she was at her home when she heard screams emanating from the home of the deceased. She went to the home of the deceased. She found some people chasing a person. She was told that the person who was being chased was the accused. She did not see him. On getting to the home, she found the body of the deceased lying in a water-logged pit. She and other people removed the body from the pit and took it to the house of the deceased. Policemen were called to the scene. They took the body away.

Neither the defence nor the prosecution made submission at the close of the prosecution case. The court is now required to rule on whether the accused has a case to answer.

1. A prima facie case, it has been held, means-

*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 –see **Ramanlal Trambaklal Bhatt – vs – Republic (1957) EA332.***

The only witness who testified in the case, PW1, stated that she did not see the person who was being chased. She did not state how the accused may have been connected with the death of the deceased. There is then no evidence, either circumstantial or otherwise, to connect the accused with the death of the deceased.

The evidence placed before the court cannot sustain a conviction against the accused if he elected to give no evidence in the case.

In the foregoing the accused has no case to answer and is accordingly acquitted of the charge vide section 210 of the Criminal Procedure Code.

Ruling delivered, dated and signed in open court at Kakamega this 20th day of November, 2018.

J. NJAGI

JUDGE

In the presence of

Juma.....for state

Miss Wilunde –No appearancefor accused

Court clerk.....George

Accused.....present

14 days Right of appeal