

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KENYA**  
**CRIMINAL CASE NO. E056 OF 2021**

**REPUBLIC.....**

**.....PROSECUTION**

**- V E R S U S -**

**ALLAN ROP alias RICHARD.....**

**ACCUSED**

**RULING**

1. The Accused Person herein, ***Allan Rop alias Richard*** is before this Court on trial on the information of Murder.
2. The Particulars of the offence are that on 21<sup>st</sup> September, 2021, at around 20.00 hours at Morit Village, Chemoiben Location in Bureti Sub-County within Kericho County, the Accused murdered ***Shadrack Tororei***.
3. The Prosecution summoned Seven (7) witnesses to testify in support of its case before closing the case. At the close of the Prosecution's Case, parties were invited to file written submissions on no case to answer.
4. At the time of writing this ruling, neither the Prosecution nor the Defence Counsel had filed their submissions. This court

proceeded to consider the evidence presented before it to determine the question as to whether or not the Accused should be placed on his defence.

5. In determining whether an Accused Person has a case to answer, the applicable principles were set by the ***Court of Appeal For Eastern Africa in Ramanlal Trambaklal Bhatt =VS= Republic, 1957 E.A.33*** in which it held ***Inter alia:***

***(i) The onus is on the prosecution to prove its case beyond reasonable doubt and a prima facie case is not made out if, at the close of the prosecution's case, the case is merely one "which on full consideration might possibly be thought sufficient to sustain a conviction."***

***(ii) The question whether there is a case to answer cannot depend only on whether there is "some evidence irrespective of its credibility or weight, sufficient to put the Accused on his defence. A mere scintilla of evidence can never be enough; nor can any amount of worthless discredited evidence."***

6. I have already stated that the prosecution closed its case after seven witnesses had testified. ***Mercy Cherop (PW.3)***

testified as the only eye witness. Her evidence placed **Allan Rop** at the scene of Crime. PW.3 told this Court that on 21<sup>st</sup> September, 2021 at around 3.00 am, she was asleep when she heard her sister called **Caroline Chepkurui** scream while requesting her to open the door for her.

7. It is the evidence of PW.3 that **Caroline Chepkurui** told her that **Allan Rop**, the Accused was beating **Shadrack Tororei**, the deceased in the field.
8. PW.3 said she came out and rushed to scene together with her sister Caroline Chepkurui. PW.3 said she saw **Allan Rop** at the scene. She also said that she saw the Accused flee the scene. PW.3 further stated that she was able to see **Allan Rop** with the help of lights from a Solar powered torch.
9. This Court is satisfied that the evidence of PW.3 placed the Accused at the scene of crime.
10. **P.C. Nixon Terer (PW.5)** told this Court that on 22<sup>nd</sup> September, 2021, **Allan Rop** surrendered himself to Litein Police Station while in company of one **Bernard Korir**.

11. After carefully evaluating the evidence presented by the prosecution, this Court is satisfied that the prosecution has established a prima facie case necessitating the Accused namely: **Allan Rop** to be placed on his defence. Consequently, the Accused is placed on his defence.
12. It is now upon him to inform this Court whether he will testify in person and if yes, whether he is going to give sworn or unsworn testimony.
13. The Accused and his legal advisers should also state whether the Accused would summon independent witnesses.

**Dated, Signed and Delivered at Kericho this 2<sup>nd</sup> day  
of October, 2025.**

.....  
**J.K. SERGON  
JUDGE**

In the presence of:

C/Assistant - Rutoh

Prosecutor - Maundu

Accused - Present in Prison.

Morara for the Accused

