

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAKURU
CRIMINAL CASE NO. 22 OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

WELDON KERING KERICHACCUSED

RULING

1. The accused person herein is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on 6th day of May, 2020 at Tuiyabei Village, Kuresoi South Sub-County within Nakuru County, he murdered Peter Rono Kipkoech. He denied the charge and the prosecution called 10 witnesses in support of its case.
2. At the close of the prosecution case, both parties opted to file submissions with Mr. Kihara, the Prosecution Counsel, urging that the accused person be placed on his defense arguing that a prima facie case has been established against the accused person.
3. On the other hand, the defense counsel urged this court to acquit the accused at this stage arguing that the prosecution's evidence is not 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.
4. In short, the defence argued that no prima facie case has been established against the accused. Indeed, the law requires that at the close of the prosecution case, the trial court takes into account the evidence to rule on whether a prima facie case has been made out to call upon the accused person to state his defence. It is now settled as to what a prima facie case is. See *Ramanlal Bhat vs Republic (1957) EA 332*.
5. In effect, this Court would be complying with Section 306 of the Criminal procedure Code which provides that: -

306. (1) When the evidence of the witnesses for the prosecution has been concluded, the court, if it considers that there is no evidence that the

accused or any one of several accused committed the offence shall, after hearing, if necessary, any arguments which the advocate for the prosecution or the defence may desire to submit, record a finding of not guilty.

(2) When the evidence of the witnesses for the prosecution has been concluded, the court, if it considers that there is evidence that the accused person or any one or more of several accused persons committed the offence, shall inform each such accused person of his right to address the court, either personally or by his advocate (if any), to give evidence on his own behalf, or to make an unsworn statement, and to call witnesses in his defence, and in all cases shall require him or his advocate (if any) to state whether it is intended to call any witnesses as to fact other than the accused person himself; and upon being informed thereof, the judge shall record the fact.

(3) If the accused person says that he does not intend to give evidence or make an unsworn statement, or to adduce evidence, then the advocate for the prosecution may sum up the case against the accused person; but if the accused person says that he intends to give evidence or make an unsworn statement, or to adduce evidence, the court shall call upon him to enter upon his defence.

6. It is trite that, where the court is not acquitting the accused person at the close of prosecution's case, there is no need for a reasoned ruling for a case to answer. Reasons should only be given where the submissions of a no case to answer by the accused is upheld and the accused is to be acquitted.-see *Festo Wandera Mukando and Michael Kariuki Waweru v Republic [1980] KEHC 3 (KLR)*.
7. Accordingly, upon consideration of the evidence adduced by prosecution, this Court is satisfied that the prosecution has established prima facie case against the accused.

8. Consequently, he is hereby placed on his defence under Section 306 (2) of the Criminal Procedure Code.
9. His rights thereof explained.

Dated, signed and delivered at Nakuru this 18th Day of November 2025.

PATRICIA GICHOHI

JUDGE

In the presence of:

Mr. Kihara for the State

Ms Mungai for Accused

Kamau , Court Assistant