

REPUBLIC OF KENYA
IN THE HIGH COURT AT KERICHO
CRIMINAL CASE 17 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

BENARD KIPRONO KIRUI.....
ACCUSED

RULING

1. ***Benard Kiprono Kirui*** the Accused herein were charged with the information of Murder Contrary to Section 203 as read with 204 of the Penal Code Particulars of the information are that on the 2nd day of December, 2015 at Kapnandet Village, Kipkoiyan Location, Kericho Sub - County within Kericho County, murdered Samwel Kipyegon Tanui.
2. On 24th September 2018, the accused person took a plea and pleaded not guilty to the charge of murder. The prosecution called seven (7) witnesses who testified in support of its case against the accused herein. The prosecution closed its case.
3. The Learned Counsel representing the accused urged the court to consider the evidence adduced by the prosecution in its ruling for case to answer.
4. The Learned Senior Assistant Director of Public Prosecution on her part maintained that the prosecution had established a prima facie case against the accused beyond reasonable doubt.
5. This court has considered the prosecution's case at length. Pw. 1 testified that she saw the accused assaulting the deceased and

the accused informed her that he was assaulting him because he owed him 200 shillings, the accused person chased them away it was her testimony that the deceased had a bottle of alcohol and they were both drunk, the accused person step on the deceased on the chest as the deceased laid down. Pw. 3 stated the deceased had gone to drink alcohol in the accused persons home after the body had been retrieved from the river went to the mortuary where he observed the body had been hit on one side of the chest, the doctor told them that he was hit on the left side of the chest and that he died before he was in the water.

Pw. 6 testified that he was informed that there was a dead body recovered at Kapnandet village and he managed to recovered statement of the witnesses and he established from the key witness pw 1 that prior to the death there was a suspect who was assaulting the deceased claiming that the deceased owed him 200 shillings and that other witnesses confirmed that the deceased had complained that the accused had assaulted him ,he compiled the report and forward to the ODPP who directed that the accused be charged .

6. Pw. 7 a medical officer stated that he conducted an autopsy on the deceased and formed the opinion that the cause of death was massive bleeding mainly from the lungs, the injury was caused a blunt injury with the highest magnitude on the chest and he produced the post mortem report.

7. I find that the prosecution witness accounts place the accused at the crime scene and there is direct evidence that the accused assaulted the deceased on the chest this was witnesses by pw 1 it is also evident in the testimony of pw 7 and that the

victim succumbed to the injuries he sustained as a result of the assault.

8. In *Republic v Abdi Ibrahim Owi* [2013] eKLR, the court defined a prima facie case as follows: “Prima facie’ is a Latin word defined by Black’s Law Dictionary 8th Edition as, “sufficient to establish a fact or raise presumption unless disapproved or rebutted”. ‘Prima facie’ is defined by the same dictionary as “the establishment of a legally required rebuttable presumption.” whereas in *Ronald Nyaga Kiura v Republic*, the court held: “ It is important to note that at the close of the Prosecution, what is required in law at this stage is for the trial court to satisfy itself that a prima facie case has been made out against the accused person sufficient enough to put him on his defence pursuant to the provisions of Section 211 of the Criminal Procedure Code...”

9. Having considered the material placed before me, I am satisfied that the prosecution has established a prima facie case for the purposes of a finding that the accused has a case to answer. Accordingly, the Accused Person is placed on his defence.

**Dated, signed and delivered at Kericho this 19th day
of March, 2026**

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**J. K. SERGON
JUDGE**

In the presence of:
C/Assistant – Rutoh
Prosecutor – Kimaru

Appellant -
Kirui holding brief for Mutai for the Accused