



**Republic v Mutisya (Criminal Case 3 of 2019)
[2025] KEHC 1059 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1059 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CRIMINAL CASE 3 OF 2019
EN MAINA, J
FEBRUARY 27, 2025**

BETWEEN

REPUBLIC STATE

AND

YVONNE MUTHEU MUTISYA ACCUSED

RULING

1. The Accused is charged with Murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). It is alleged that on the night of 24th January, 2019 at Mjini village within Machakos Township location Central Division in Machakos County she murdered her husband Mohammed Ahmed alias Mbonge.
2. The Accused pleaded not guilty to the charge whereupon the Prosecution called eight (8) witnesses and produced a Post Mortem Form in which it is opined that the deceased died as a result of severe internal hemorrhage secondary to penetrating abdominal injury. The prosecution also produced a knife purportedly used in the commission of the offence, photographs and a report of the Government Analyst.
3. After the close of the case for the prosecution learned counsel for the Prosecution and for the Accused filed written submissions to address the issue of whether or not the prosecution had established a prima facie case against the accused sufficiently to warrant her to be put on her defence.
4. For the prosecution it was argued that the prosecution had proved all the elements of the offence of murder to wit the actus reus and mens rea to the required standard through the testimonies of the eight (8) witnesses and the documentary evidence tendered. Ms Kaburu, learned Prosecution Counsel urged this court to put the accused on her defence.
5. On his part, Mr. Mutuku, Learned Counsel for the accused analyzed the evidence tendered and submitted that the prosecution had not established a prima facie case against the accused person to



warrant her to be put on her defence as the evidence on record is not sufficient to convict the accused. Counsel urged this court to find the accused has no case to answer and acquit the accused at this stage.

6. At this stage the court is not required to conclusively determine whether the case against the accused person has been proved to the standard required but merely whether a prima facie case has been established against the accused sufficiently to warrant her to be put on her defence.

7. As held in the case of *Ronald Nyaga Kiura v Republic* [2018] eKLR;

“..... A prima facie case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebuttal is offered by an accused person.”

8. Applying the above test to this case and having carefully considered the evidence adduced by the prosecution and the rival submissions it is my finding that the prosecution has established a prima facie case against the accused sufficiently to warrant her to be put on her defence. Accordingly, the accused shall be required to enter her defence.

RULING SIGNED, DATED AND DELIVERED VIRTUALLY AND ALSO ORALLY IN COURT ON THIS 27TH DAY OF FEBRUARY, 2025.

E. N. MAINA

JUDGE

27/02/2025

In the presence of:

Mr. Mutinda Kimeu H/B Mr. Kituku Advocate for the Accused

Ms Nyauncho for the state

Yvonne Mutheu Mutisya - Accused person

C/A: Geoffrey

