



**Republic v Naweet (Criminal Case E002 of 2022)
[2024] KEHC 699 (KLR) (31 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 699 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE E002 OF 2022
EM MURIITHI, J
JANUARY 31, 2024**

BETWEEN

REPUBLIC PROSECUTION

AND

PATRICK NAWEET ACCUSED

RULING

1. The accused 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 were that he “on the 3rd day of January 2022 at Kambi Garba area in Isiolo Township Isiolo North sub-County within Isiolo County murdered Elizabeth Ibrahim Ekaru alias Kibiruni.”
2. The accused person pleaded not guilty to the charge and the matter proceeded to trial, the prosecution calling 11 witnesses to prove the charge.
3. The Prosecution filed Written Submissions dated 8/10/2023 urging that it had by its witnesses established a prima facie case against the accused to warrant him being placed on is defence. The defence did not file any submissions.
4. The court has considered as required under section 306 of the *Criminal Procedure Code* whether there is the evidence that the accused person committed the offence. At this stage, the court considers the prosecution evidence to establish whether a prima facie case exists, which as held in *Ramanlal T. Bhatt v. R* (1957) EA 332, 335 is “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.”
5. Where the court has considered that there is not established a prima facie case, the accused is entitled to an acquittal, see *Murimi v. R* (1967) EA 542 and *Wachira v. R* (1975) EA 262, and the Court is required to give full reasons for the decision.



6. Where the court finds that a prima facie case has been established as held in *Kibera Karimi v. R* (1979) KLR 36 (Trevelyan & Todd JJ) the court is not required to give reasons for the finding so as not to prejudice the fair trial of the case by giving the impression that the court has already made up its mind without hearing the defence. See also *Festo Wandera Mukando v. R* (1976 – 80) KLR 1626 and *Antony Njue Njeru v R*, Nairobi C.A. Cr. Appeal No. 77 of 2006 and the Kenya Judiciary Criminal Procedure Benchbook, 2018 at 99-100.
7. The court considers that there is the evidence that the accused person committed the offence, having regard to the elements of the offence of murder.

Orders

8. Consequently, the accused shall be put on his defence in accordance with section 306 (2) of the *Criminal Procedure Code*, and his rights thereunder shall be explained.

Order accordingly.

DATED AND DELIVERED ON THIS 31ST DAY OF JANUARY, 2024.

EDWARD M. MURIITHI

JUDGE

Appearances

Mr. Masila Prosecution Counsel for the DPP.

Mr. Sandi for the Accused.

Ms. Kombo and Mr. Makori watching brief for the victim's family.

