



Director of Public Prosecutions v Mugambi & another (Criminal Case 93 of 2018) [2024] KEHC 2253 (KLR) (29 February 2024) (Ruling)

Neutral citation: [2024] KEHC 2253 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE 93 OF 2018
TW CHERERE, J
FEBRUARY 29, 2024**

BETWEEN

DIRECTOR OF PUBLIC PROSECUTIONS PROSECUTION

AND

JUDAH KIRIMI MUGAMBI 1ST ACCUSED

MOSES GITONGA MBOROKI 2ND ACCUSED

RULING

1. Judah Kirimi Mugambi and Moses Gitonga Mboroki (Accused 2 and 3 respectively) were jointly charged with another that died with the offence of Murder contrary to Section 203 as read with Section 204 of the *Penal Code* in that they murdered one Stephen Kiarie on the night of 5th and 6th October, 2018 at Kooje area in Imenti North Sub County within Meru County.
2. Accused persons denied the offence of Murder and the prosecution has called a total of three witnesses and closed its case on 20th February, 2024.
3. The issue for determination is whether, based on the evidence adduced by the three prosecution witnesses, the prosecution has established a prima facie case to warrant the accused persons to be placed on their defence to answer to the charge of Murder.
4. In *Ramanlal Trambaklal Bhatt v R* [1957] EA 332 at 335, the court stated as follows:

“It may not be easy to define what is meant by a, “prima facie case”, but at least it must mean one on which a reasonable, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence”.
5. Having considered the testimonies of the three prosecution witnesses, I am satisfied that a prima facie case has been established against to warrant Accused persons to be placed on their defence. I therefore



find that the accused persons namely Judah Kirimi Mugambi and Moses Gitonga Mboroki have a case to answer.

6. The provisions of Section 306(2) of the *Criminal Procedure Code* and Article 50(2)(i)(j)(k) of the *Constitution* are hereby explained to the accused persons in the presence of their advocate Mr. Mwanzia.

DELIVERED AT MERU THIS 29TH DAY OF FEBRUARY 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistants - Kinoti/Munene

Accused - Present

For the Accused - Mr.Mwanzia Advocate

For the State - Ms. Rita Rotich (PC 1)

