



**Republic v Bett (Criminal Case 11 of 2020) [2024] KEHC 11129 (KLR) (30 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 11129 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BOMET  
CRIMINAL CASE 11 OF 2020**

**RL KORIR, J**

**MAY 30, 2024**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**PATRICK KIPKEMOI BETT ..... ACCUSED**

**RULING**

1. The Accused was charged with murder contrary to Section 203 as read with Section 204 of the [Penal Code](#). The particulars of charge were that on 14<sup>th</sup> May, 2020 at Kimwait Location in Sotik Sub County within Bomet County, the Accused murdered Kevin Kipngeno.
2. On 3<sup>rd</sup> November 2020, the Accused pleaded not guilty to the charge, and to prove their case against him, the Prosecution called a total of seven (7) witnesses.
3. At this stage of the proceedings what this court is required to do is to establish whether a *prima facie* case against the Accused has been established by the Prosecution. In the case of [Ronald Nyagaa Kiura v. Republic](#) (2018) eKLR, Limo J. held:-

“It is important to note that at the close of prosecution, what is required in law at this stage is for the trial court to satisfy itself that *prima facie* has ben 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. 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. This is well illustrated in the cited Court of Appeal case of *Ramanlal Bhat v Republic* [1957] EA 332. At that stage of the proceedings the trial court does not concern itself to the standard of proof required to convict which is normally beyond reasonable doubt. The weight of the evidence however must be such that it is sufficient for the trial court to place the accused to this defence.”



4. In determining whether the Prosecution has established a *prima facie* case against the Accused, I warn myself against making definitive findings at this stage on the trial. In the case of [Republic v Robert Zippor Nzilu](#) (2020) eKLR, Odunga J. (as he then was) held that: -

“That there is a danger in making definitive findings at this stage, especially where the Court finds that there is a case to answer is not farfetched and the reasons for not doing so are obvious. As was appreciated by Trevelyan and Chesoni, JJ in *Festo Wandera Mukando v. the Republic* (1980) KLR 103:

“we once more draw attention to the inadvisability of giving reasons for holding that an accused has a case to answer. It can prove embarrassing to the court and, in an extreme case, may require an appellate court to set aside an otherwise sound judgement. Where a submission of “no case” is rejected, the court should say no more than that it is. It is otherwise where the submission is upheld when reasons should be given”; for then that is the end to the case or the count or counts concerned.”

5. Similarly, the Court of Appeal in [Anthony Njue Njeru v Republic](#) (2006) eKLR held that:-

“..... We wish to point out here that it is undesirable to give a reasoned ruling at the close of the prosecution case as the learned Judge did here unless the Court concerned is acquitting the accused person.”

6. I have carefully considered the evidence on record and the Prosecution’s written submissions dated 9<sup>th</sup> April 2024. I am satisfied that the Prosecution has established a *prima facie* case against the Accused.
7. It is my finding that the accused has a case to answer and is hereby placed on his defence in accordance to section 211 of the [Criminal Procedure Code](#).
8. Orders accordingly.

**RULING DELIVERED, DATED AND SIGNED THIS 30<sup>TH</sup> DAY OF MAY, 2024.**

**R. LAGAT-KORIR**

**JUDGE**

Ruling delivered in the presence of Mr Leteipa for the Accused, Mr Njeru for the State and Siele (Court Assistant).

