



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**CRIMINAL CASE NO. 41 OF 2017**

**REPUBLIC.....DIRECTOR OF PUBLIC PROSECUTIONS**

**VERSUS**

**WILLIAM AMEKA.....ACCUSED**

**RULING**

1. On 7<sup>th</sup> December 2021, the prosecution closed its case. The defence indicated that it would file written submissions on a no case to answer based on the material on record. The written submissions were filed on 10<sup>th</sup> February 2021. I have read through them and noted the arguments made.
2. I have gone through the record to assess whether or not the prosecution has established a *prima facie* case, sufficient to have accused person put on his defence.
3. I have gotten guidance from *Ramanlal Trambaklal Bhatt vs. R* (1957) EA 332 (Sir Newham Worley P, Sir Ronald Sinclair VP and Bacon JA), where the court described a *prima facie* case as one in which a reasonable court, properly directing its mind to the law and the evidence, could convict, if no explanation was offered by the defence. See also *Director of Public Prosecutions vs. Geoffrey Mukonza Mwangangi* [2018] eKLR (Ngenye-Macharia J), and *Frankline Muthoka Mumo vs. Republic* [2019] eKLR (Odunga J).
4. I have read through the testimonies of PW1, PW2, PW3, PW4, PW5, PW6, PW7 and PW8, and I am persuaded that the Prosecution has adduced evidence which establishes a *prima facie* case against the accused person, and I hereby find that the accused has a case to answer, and I shall, accordingly, be put him on his defence.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 25TH DAY OF FEBRUARY 2022**

**W MUSYOKA**

**JUDGE**

**MR. ERICK ZALO, COURT ASSISTANT.**

**MR. OTSYENO, INSTRUCTED BY MESSRS. EK OWINYI & COMPANY, ADVOCATES, FOR THE ACCUSED PERSON.**

**MR. MWANGI, INSTRUCTED BY THE DIRECTOR OF PUBLIC PROSECUTIONS, FOR THE REPUBLIC.**