



REPUBLIC OF KENYA



**KENYA LAW**  
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**Republic v Wariri (Criminal Case 78 of 2019)  
[2022] KEHC 10110 (KLR) (Crim) (28 April 2022) (Ruling)**

Neutral citation: [2022] KEHC 10110 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CRIMINAL  
CRIMINAL CASE 78 OF 2019**

**LN MUTENDE, J**

**APRIL 28, 2022**

**BETWEEN**

**REPUBLIC ..... PROSECUTION**

**AND**

**CYRUS MAINA WARIRI ..... ACCUSED**

**RULING**

1. Cyrus Maina Mwariri, the Accused, is charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code*. Having denied the charge of murdering Kelvin Mburu Nyamu, deceased, he was taken through trial and at the close of the prosecution's case a total of fourteen (14) witnesses testified.
2. In the case of *Bhatt vs. Republic* (1957) EA 332, It was stated that :  
  
“*Prima facie* case was defined as 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. At this stage, the court is not required to decide finally whether the evidence is worthy of credit or whether, if believed, it is weighty enough to prove the case conclusively,-that final determination can only properly be made when the case for the defence has been heard.....”
3. Upon hearing evidence of prosecution witnesses and having considered what a prima facie case entails as per the principle enunciated in the Bhatt case (Supra) I find the prosecution having established a prima facie case requiring an explanation by the accused.
4. Accordingly, the accused is hereby placed on his defence pursuant to the provisions of Section 306(2) of the *Criminal Procedure Code*.



5. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 28TH DAY OF APRIL, 2022.**

**L. N. MUTENDE**

**JUDGE**

**IN THE PRESENCE OF:**

Ms. Odour holding brief for Ms. Parklea for the State.

Accused

Court Assistant – Mutai

