



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KABARNET**

**CRIMINAL CASE NO. 61 OF 2017**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**DANIEL KIPKURUI KIBOWEN.....ACCUSED**

**RULING ON CASE TO ANSWER**

1. Upon considering the evidence presented herein by the Prosecution and the written submissions dated 23<sup>rd</sup> April 2020 thereon by Counsel for the Accused, without exhaustive discussion of the merits so as not to prejudice the fair trial of the case as counseled by ***Kibera Karimi v. R*** (1979) KLR 36, and ***Festo Wandera Mukando v. R*** (1976 – 80) KLR 1626, and having considered as held in KBT HCCRC No. 13 of 2017, that –

*“A trial Court is under a duty, as held by the Court of Appeal in ***Murimi v. R*** (1967) EA 542, to acquit an accused if the Prosecution “failed to make out a case sufficient to require the accused to enter a defence” and further that such a case is made out when a prima facie case is established being “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.” See ***Ramanlal T. Bhatt v. R*** (1957) EA 332, 335”*

I find that the Prosecution has established a ***prima facie*** case.

2. 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 to him.

*Order accordingly.*

**DATED AND DELIVERED THIS 24<sup>TH</sup> DAY OF SEPTEMBER 2020.**

**EDWARD M. MURIITHI**

**JUDGE**

**Appearances:**

M/S Mbeche & Co. Advocates for the Appellant.

Ms. Macharia, Ass. DPP for the Respondent.