

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL CASE NO. 7 OF 2015

REPUBLIC STATE

VERSUS

BENARD LEMARA.....ACCUSED

RULING

1. The Accused Person, Bernard Lemara, is charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. The allegations are that on the 12th day of November, 2014 at Mutende Trading Center in Njoro Sub County within Nakuru County, the Accused Person murdered Naomi Cherutich (“Deceased”).
2. The Prosecution called five witnesses. The evidence emerging from the Prosecution narrative is that the Accused Person, who was the husband to the Deceased, stabbed the Deceased in their house. The Deceased died from the single stab wound on her thigh.
3. At this stage in the proceedings, the Court is required to make a finding whether the Prosecution has presented sufficient evidence to require the Accused Person to be put on his defence or whether the case should be stopped at this point. The test to be utilized is the famous one stated in *Bhatt –vs- R [1957] EA 332*: whether, as a matter of law – without taking any conclusive view of the credibility and probative value of the evidence presented – the Prosecution has adduced *reasonable sufficient evidence* of the matter in respect of which it has the burden of proof. Reasonable sufficient evidence is one which a reasonable tribunal could convict.
4. In my view, the Prosecution has placed enough material to make this a fit case to require the Accused Person to respond to the evidence adduced.
5. **Consequently, the Court finds that the Accused Person has a case to answer and puts him on his defence. The case shall be set down for defence hearing.**

Delivered at Nakuru this 28th day of March, 2019.

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JOEL NGUGI

JUDGE