



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**CRIMINAL CASE NO. 59 OF 2009**

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

**VERSUS**

**PETER MUHATI ONDUSI.....ACCUSED**

**RULING**

1. Although I had allocated this matter a date for judgement, I have gone through the record and established that it ought to come up for a ruling on whether the prosecution has established a *prima facie* case, sufficient to have accused should be put on his defence.
2. I have guidance from *Ramanlal Trambaklal Bhatt vs. R* (1957) EA 332, where the court describes a *prima facie* case as one in which a reasonable tribunal, properly directing its mind to the law and the evidence, could convict, if no explanation was offered by the defence. *Director of Public Prosecutions vs. Geoffrey Mukonza Mwangangi* [2018] eKLR and *Frankline Muthoka Mumo vs. Republic* [2019] eKLR are in similar vein.
3. I have gone through the record before me, principally the testimonies of PW1, PW2, PW3 and PW4, 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, put him on his defence.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 25<sup>TH</sup> DAY OF OCTOBER 2019**

**W MUSYOKA**

**JUDGE**