

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL CASE NO. 47 OF 2014

REPUBLIC.....DIRECTOR OF PUBLIC PROSECUTIONS

VERSUS

CALVIN WAWERU.....ACCUSED

RULING

1. On 17th June 2019, the prosecution closed its case. The defence put in written submissions on a no case to answer. I have gone through the record to ascertain whether the prosecution has established a *prima facie* case, sufficient to have accused person put on his defence.

2. I have guidance from *Ramanlal Trambakal Bhatt vs. R* (1957) EA 332, where the court described 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, PW4, PW5, PW6, PW7, PW8 and PW9, 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 29TH DAY OF NOVEMBER, 2019

W. MUSYOKA

JUDGE