



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 61 OF 2016**

**REPUBLIC.....STATE**

**VS**

**JAMES MWANIKI GICIRIRI.....ACCUSED**

**RULING ON NO CASE TO ANSWER**

1. The Accused Person, James Mwaniki Giciriri (“Accused Person”) is charged with murder contrary to section 203 of the Penal Code as read together with section 204 of the Penal Code. He is accused of murdering John Kamau Wainaina (“Deceased”) on 23/10/2016 at Kivumbini area in Nakuru East Sub-County within Nakuru County.
2. The Prosecution called six witnesses to prove its case. The narrative emerging from the Prosecution witnesses is that the Accused Person suspected the Deceased of having an affair with his estranged wife. In a murderous rage, he attacked the Deceased with a knife inflicting a fatal stab wound. At least one Prosecution witness testified that he saw the Accused Person fleeing the scene after the stabbing. Other witnesses gave contextual and supplemental evidence.
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 21<sup>st</sup> day of June, 2018.**

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**(PROF). JOEL NGUGI**

**JUDGE**