



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT ELDORET**  
**CRIMINAL CASE 11 OF 2006**

**REPUBLIC.....APPLICANT**  
**VERSUS**  
**FLORENCE NANALWA MASASI.....1<sup>ST</sup> RESPONDENT**  
**PETER MASASI MUCHAWANA.....2<sup>ND</sup> RESPONDENT**  
**MUSA MASASI.....3<sup>RD</sup> RESPONDENT**

**RULING**

In the case of **Ramanlal Trambaklal Bhatt -Vs- Republic [1957] E.A. 332**, a prima facie case was defined as 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. At this stage, the court is not required to decide finally whether the evidence is worthy of credit or whether, if believed, it is weighty enough to prove the case conclusively, that final determination can only properly be made when the case for the defence has been heard.

I have considered the evidence which the prosecution has adduced in this case, and I find no prima facie case demonstrated against the 1<sup>st</sup> accused as defined in the **Bhatt -Vs- Republic** case (supra). I therefore acquit the 1<sup>st</sup> accused under Section 306 of the Criminal Procedure Code.

I am however, satisfied that a prima facie case has been demonstrated against the 2<sup>nd</sup> and 3<sup>rd</sup> accused. The two therefore have a case to answer and are put on their defence.

It is so ordered.

**DATED AND DELIVERED AT ELDORET**

**THIS 19<sup>TH</sup> DAY OF JULY, 2012.**

**F. AZANGALALA**  
**JUDGE**

**Read in the presence of:-**

**Mr. Chirchir for the State and**

**Mr. Chepkwony for the accused persons.**

**F. AZANGALALA**  
**JUDGE**

**19<sup>TH</sup> JULY, 2012**