



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Wahome (Criminal Case E020 of 2021)
[2025] KEHC 3472 (KLR) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3472 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E020 OF 2021
LN MUTENDE, J
MARCH 20, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

BERNARD WAMBUGU WAHOME ACCUSED

RULING

1. Bernard Wambugu Wahome, the Accused, was at home with his nuclear family on the night of 26th August 2021, and they retired to bed. The accused and Agnes Etot Lologoi (deceased) his wife slept in their bedroom. In the morning the deceased was found dead, with a deep cut on the neck and the accused was missing.
2. The prosecution having closed its case, this court is required to establish whether a prima facie case has been established requiring the accused to be placed on his defence. In the celebrated case of *Ramanlal Trambaklal Bhatt v Republic* [1957] EA 332, it was stated that:

“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot argue that a prima facie case is merely one which on full consideration might possibly be thought sufficient to sustain a conviction. This is perilously near suggesting that the court could not be prepared to convict if no defence is made, but rather hopes the defence will fill the gaps in the prosecution case, nor can we argue that the question whether there is a case to answer depends only on whether there is “some evidence irrespective of its credibility or weight sufficient to put the accused on his defence.”

- ii. A mere scintilla of evidence can never be enough nor can any amount of worthless discredited evidence... It may not be easy to define what is meant by prima facie case but at least it must mean 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.” (Emphasis mine).

3. Looking at crucial evidence on record, eye witnesses pointed at the accused as the one responsible for the crime.
4. Considering circumstantial evidence on record, I am satisfied that the prosecution has established a prima facie case against the accused as defined in the case of *Bhatt v Republic (supra)*, that requires him to address the court on his defence in compliance with Section 306(2) of the [Criminal Procedure Code](#).
5. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 20TH DAY OF MARCH, 2025.

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L.N. MUTENDE

JUDGE

