



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Maina (Criminal Case E023 of 2021)
[2025] KEHC 3589 (KLR) (19 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3589 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL CASE E023 OF 2021
LN MUTENDE, J
MARCH 19, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

MONICA WACUKA MAINA ACCUSED

RULING

1. Monica Wacuka Maina, the Accused, is charged with Murder contrary to Section 203 as read with section 204 of the *Penal Code*. Particulars being that on 14/12/2021 at Mihang'o Sub-Location, Subukia Sub-County, within Nakuru County with another not before court, murdered DNN (Deceased)
2. At this point, this court is required to establish if a prima facie case has been made out requiring the accused to be placed on his defence. In the celebrated case of *Ramanlal Trambaklal Bhatt v Republic* [1957] E.A 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. Evidence on record is circumstantial, the deceased having been last seen with a lady in black and a bodaboda operator. Upon being arrested some black trouser and top were recovered from the Accused house and she purportedly led the police to a house purportedly occupied by the bodaboda operator. This evidence requires some explanation by the Accused as to what transpired.
4. Therefore, I am satisfied that the prosecution has demonstrated a prima facie case against the accused as defined in the case of *Bhatt v Republic (supra)*, that requires her to address the court in her defence in compliance with Section 306(2) of the *Criminal Procedure Code*.
5. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 19TH DAY OF MARCH, 2025.

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L.N. MUTENDE

JUDGE

