



REPUBLIC OF KENYA



**Republic v Makokha (Criminal Case 5 of 2018)
[2023] KEHC 20702 (KLR) (21 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20702 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARISSA
CRIMINAL CASE 5 OF 2018**

**JN ONYIEGO, J
JULY 21, 2023**

BETWEEN

REPUBLIC PROSECUTION

AND

ELIZABETH NANGILA MAKOKHA ACCUSED

RULING

1. The accused person herein was arraigned before this court on 19-3-2018 charged with the offence of murder contrary to section 203 as read with section 204 of the [Penal Code](#) (cap 63) Laws of Kenya. Particulars are that on the 7th day of March, 2018 at Bulla Sagare, in Garissa Sub-County within Garissa County murdered Abraham Masinde Nyongesa
2. After returning a plea of not guilty, the matter proceeded to full trial with the prosecution calling a total of 8 witnesses. Upon the close of the prosecution case the court is called upon to make a finding whether the prosecution has established a prima facie case to warrant accused being put on her defence.
3. It is trite law that a prima facie case does not mean that a case has to be proved beyond reasonable doubt. It simply means that the prosecution has established with a reasonable degree that there is a high possibility that the accused may have committed the offence. See *R Bhatt v Republic* (1957) EA 332 where the court held that a prima facie case does not mean a case proved beyond any reasonable doubt since at this stage the court has not heard evidence for the defence.
4. From the evidence tendered before this court and exhibits produced, I am satisfied that the prosecution has established a prima facie case to warrant accused being called upon to make her defence. Accordingly, accused is put on her defence. Pursuant to section 306 of the [Criminal Procedure Code](#), accused is explained to her rights that; she shall be at liberty to give sworn testimony or unsworn testimony or opt to keep quiet and that if she has witnesses she wishes to call she shall be at liberty to call them.



DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 21ST DAY OF JULY, 2023

J.N. ONYIEGO

JUDGE

