



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MAKUENI**

**HIGH COURT CRIMINAL CASE NO. 158 OF 2017**

**(FORMERLY MACHAKOS HCCRC 7 OF 2019)**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**ALEX MWENDO JOHN.....ACCUSED**

**RULING ON CASE TO ANSWER**

1. I have perused and considered the evidence of the prosecution on record.
2. I have also considered the submissions of the counsel for the accused person on whether the prosecution has established a prima facie case against the accused to justify the court put the accused person on his defence. I note that the prosecution has relied on the evidence on record.
3. A prima facie case is not the same thing as proof of a case beyond any reasonable doubt. A prima facie case is a case where a court of law properly directing itself on the evidence on record, may convict.
4. I find that in the present case, with the evidence on record, the prosecution has established a prima facie case against the accused person herein. I so find and proceed to put the accused person herein on his defence.
5. I will thus proceed to explain to the accused person the three (3) options available to him in his defence under section 211 of the Criminal Procedure Code (cap 75).

**Delivered, signed & dated this 13<sup>th</sup> day of July 2021, in open court at Makueni.**

.....

**GEORGE DULU**

**JUDGE**