



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KAKAMEGA**

**CRIMINAL CASE NO. 7 OF 2018**

**REPUBLIC.....PROSECUTIONS**

**VERSUS**

**MARTIN MUSIEGA.....ACCUSED**

**RULING**

1. On 13<sup>th</sup> May 2021, the prosecution closed its case. The defence indicated that it would not submit at that stage, and invited the court to rule on a no case to answer based on the material on record. To that end I have gone through the record to assess whether or not the prosecution has established a *prima facie* case, sufficient to have accused person put on his defence.

2. I have gotten guidance from *Ramanlal Trambaklal Bhatt vs. R* (1957) EA 332 (Sir Newham Worley P, Sir Ronald Sinclair VP and Bacon JA), where the court described a *prima facie* case as one in which a reasonable court, properly directing its mind to the law and the evidence, could convict, if no explanation was offered by the defence. See also *Director of Public Prosecutions vs. Geoffrey Mukonza Mwangangi* [2018] eKLR (Ngenye-Macharia J), and *Frankline Muthoka Mumo vs. Republic* [2019] eKLR (Odunga J).

3. I have read through the testimonies of PW1, PW2, PW3, PW4, PW5, PW6 and PW7, and I am persuaded that the prosecution has adduced evidence which establishes a *prima facie* case against the accused person, and I hereby find that the accused has a case to answer, and I shall, accordingly, be put him on his defence.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 17<sup>th</sup> DAY OF SEPTEMBER 2021**

**W MUSYOKA**

**JUDGE**