

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYAHURURU

CRIMINAL CASE NO. E008 OF 2024

REPUBLIC.....PROSECUTOR

-VERSUS-

JOHN MULE MUNGAI.....ACCUSED

RULING

1. ***John Mule Mungai***, the Accused, is charged with the offence of Murder contrary to section 203 as read with section 204 of the Penal Code. Particulars being that on 10th June,2024, he murdered ***Beatrice Nyandigo***.
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 -Vs- 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.”

- 3.** The fact of death was confirmed by evidence of witnesses who went to the scene and found the deceased lifeless body lying on the floor at the house with stab wounds. Subsequently, a past-mortem was conducted and the cause of death was concluded by **PW2 Dr. Felix Masongo**, to be massive bilateral haemothorax secondary to penetrating chest trauma secondary to multiple stab wounds.
- 4.** Looking at evidence adduced by the prosecution, PW 1 B.O. testified to have been with his grandmother, the deceased, when the act was committed. He testified that he was stabbed on the neck, mouth, forearm and

left leg. That he saw his grandmother being stabbed on the back and he identified the Accused, his grandfather, as the perpetrator.

5. **PW 9 Makae Omar**, their neighbour confirmed that the deceased lived with the Accused and PW1 and on the fateful night when she heard PW1 crying she went and found him inside the house, still crying and the body of the deceased was on the floor. Injuries sustained were apparent. She also saw clothes for a man having been burnt.
6. Considering circumstantial and direct evidence adduced, 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.
7. It is so ordered.

Dated, signed and delivered virtually this 4th day of November, 2025.

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L.N. MUTENDE
JUDGE