

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MURANG'A**  
**CRIMINAL CASE NO. E020 OF 2021**

**REPUBLIC.....RESPONDENT**

**VERSUS**

**KELVIN WANYONYI SOITA.....APPLICANT**

**RULING**

- 1.** The accused, *Kelvin Wanyonyi Soita* faces a charge of murder Contrary to *Section 203* as read with *Section 204* of the *Penal Code*.
- 2.** The particulars are that on 4<sup>th</sup> July 2021 at about 11.30 hours at Kiamara Sub-Location, Kangema Sub-County within Murang'a County, he murdered *Maryanne Wanjiku Ngahu*.
- 3.** In support of its case, the prosecution called a total of nine witnesses.

After the close of the prosecution case, *Ms. Weyimi*, learned counsel for the accused chose not to make any submissions on the question of whether or not the accused had a case to answer.

- 4.** I have carefully considered the evidence adduced in support of the prosecution case in its entirety. The question that falls for my

determination at this stage is whether the prosecution has established a *prima facie* case sufficient to warrant placing the accused on his defence.

5. What then constitutes a *prima facie* case?

A *prima facie* case has been defined in many citations but the most comprehensive definition given in the *locus classicus* case of **Ramanlal Trambaklal Bhatt V R [1957] E.A. 332** in which the court stated as follows:

***“Remembering that the legal onus is always on the prosecution to prove its case beyond reasonable doubt, we cannot agree that a prima facie case is made out if, at the close of the prosecution, the case is merely one “which on full consideration might possibly be thought sufficient to sustain conviction”. This is perilously near suggesting that the court would not be prepared to convict if no defence is made, but rather hope the defence will fill the gaps in the prosecution case. Nor can we agree 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”. 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 a “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. ”** \_\_

6. In this case, I have thoroughly evaluated the evidence on record and conscious of the fact that I am not required at this stage to make indepth analysis of the evidence adduced by the prosecution or to make conclusive findings regarding the guilt or otherwise of the accused as charged, I have come to the conclusion that the evidence on record establishes a prima facie case sufficient to justify placing the accused person on his defence. It is therefore my finding that the accused has a case to answer. He is accordingly placed on his defence under *Section 306 (2) of the Criminal Procedure Code.*

It is so ordered.

**DATED, SIGNED and DELIVERED** at **MURANGA** this 12<sup>th</sup> day of February 2026.

**HON. C.W. GITHUA**  
**JUDGE**

**In the Presence of :**

The accused

*Ms. Weyimi* for the accused

*Mr. Mwakio* for the state

*Ms. Susan Waiganjo*, Court Assistant