

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KIBERA
CRIMINAL CASE NO. E007 OF 2024

REPUBLIC.....

PROSECUTION

VERSUS

ISAYA

LEPARKUMOI.....ACCUSED

RULING

1. The accused person, Isaya Leparkumoi is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code to which he pleaded not guilty. The particulars of the offence are that on 18th March 2024 at Mokoiyet East road within Karen Plains area Langata Sub County within Karen Location within Nairobi County murdered Margaret Namperis.
2. The prosecution called seven (7) witnesses supporting the case against the accused person before closing it on 20th January 2026. The prosecution and the accused filed written submissions which have been duly considered and there is no need to rehash them.
3. Under Section 306 of the Criminal Procedure Code, Cap 75 Laws of Kenya, this court has a duty, upon close of the prosecution's case, to make a ruling on whether the accused person has a case to answer or not. It provides as follows:

(1) When the evidence of the witnesses for the prosecution has been concluded, the court, if it considers that there is no evidence that the accused or any one of several accused committed the offence, shall after hearing, if necessary, any arguments which the

advocate for the prosecution or the defence may desire to submit recording a finding of not guilty.

(2) When the evidence of the witnesses for the prosecution has been concluded the court if it considers that there is evidence that the accused person or any one or more of several accused persons committed the offence, shall inform each such accused person of his right to address the court on his own behalf or make unsworn statement and to call witnesses in his defence.

4. A definition of what amounts to a prima facie case was given in the case of **Bhatt vs R [1957] EA 332**. In that case, the Court of Appeal expressed itself on this issue:

“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 on full consideration might possibly be thought sufficient to sustain a conviction. This is perilously near to suggesting that the Court would 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 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 is true as Wilson J said that the Court is not required at that stage to decide finally whether the evidence is worthy of credit or whether if believed it is weighty enough to prove the case conclusively: That

determination can only properly be made when the case for the defence has been heard. 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.”

5. At this stage, the applicable threshold is lower than that of proof beyond reasonable doubt, which arises only at the close of the trial. A prima facie case is established where the evidence, if uncontroverted, would justify a conviction.
6. At this juncture, the Court is not required to give detailed reasons or make final determinations on credibility; that assessment properly follows the close of the defence case. Applying the test in ***Bhatt v R (supra)***, I am satisfied that the prosecution has met the threshold necessary to place the accused on his defence.
7. The question is whether the evidence, taken as is, discloses a case to answer. I find that it does. The medical and expert evidence, together with the testimony placing the accused at the locus in quo, establish a prima facie case.
8. Accordingly, I find that a prima facie case has been established and place the accused on his defence pursuant to section 211 of the Criminal Procedure Code (Cap 75, Laws of Kenya).

Orders accordingly.

**Ruling dated and delivered in court this 22nd day of April
2026**

**D. KAVEDZA
JUDGE**

In the presence of:

Accused Present
Ms. Maina for the Prosecution
Karimi Court Assistant.

ORIGINAL