

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT THIKA
CRIMINAL CASE NO. E006 OF 2024

REPUBLIC.....
....PROSECUTOR

VERSUS

POLLY KAGENDO KATHURE.....
.....ACCUSED

RULING ON CASE TO ANSWER

Brief Facts

1. This is a ruling on whether the accused has a case to answer. The accused person was charged with the offence of murder contrary to Section 203 as read with 204 of the Penal Code. The particulars of the offence are that on 8th March 2024 at Thika Municipality, Thika West sub county within Kiambu County murdered Stephen Muuo Oluoch. On 31st October 2024 the accused person pleaded not guilty to the charge of murder which this court has perused and taken into consideration.
2. The prosecution called eleven (11) witnesses and at the close of her case, the defence counsel Ms. Wanjiru Mwangi put in submissions on no case to answer.

3. I have carefully perused the evidence of the eleven (11) prosecution witnesses vis a vis the defence submissions. I am of the considered opinion that the prosecution has established a *prima facie* case. I rely on the Court of Appeal case of **Antony Njeru vs Republic [2006] eKLR** where the court held: -

“Taking into account the evidence on record, what the learned Judge said in his ruling on no case to answer, the meaning of a prima facie case as stated in Bhatt’s (supra), we are of the view that the appellant should not have been called upon to defend himself as all the evidence was on record. It seems as if the appellant was required to fill in the gaps in the prosecution case. We wish to point out here that it is undesirable to give a reasoned ruling at the close of the prosecution case, as the learned Judge did here unless the court concerned is acquitting the accused person.”

4. Relying on that case, it is not necessary at this point to state the analysis of the evidence. The holding the Court of Appeal, in my view, was intended to prevent a scenario where the court would pre-empt the case of the defence. As such, I hold the opinion that the prosecution has established a *prima facie* case against the accused person. The accused person is hereby called upon to give her defence.

5. It is hereby so ordered.

***RULING DELIVERED VIRTUALLY, DATED AND SIGNED
AT THIKA THIS 7TH DAY OF MAY 2026.***

**F. MUCHEMI
JUDGE**