



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 7 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

ALEX MUNGAI KARIUKI.....ACCUSED

RULING

1. The accused is charged with *murder* contrary to section 203 as read with section 204 of the **Penal Code**.
2. The particulars are that on 25th May 2013 at Gitura Village within Murang'a County, he murdered *Roseline Wambui Muthoni*.
3. He pleaded *not guilty*. The prosecution lined up *seven* witnesses.
4. Does the evidence disclose a *prima facie* case sufficient to place the accused on his defence? Learned counsel for the accused, *Mr. Kurauka*, filed submissions on 8th December 2021. He opines that the prosecution's case is built atop weak circumstantial evidence and suspicions. He prayed that the accused be acquitted at this stage. The Republic filed submissions on 6th December 2021. In a synopsis, learned prosecution counsel submitted that on the totality of the evidence, the accused has a case to answer.
5. The deceased was the wife of the accused. According to the father of the accused (PW1), the couple had cohabited for 10 years and had three children. I have paid close attention to the evidence of PW5, Police Sergeant *Songok*. He said that on the material day at about noon, the accused ran into his office and told him that he "*had beaten his wife unconscious*" and sought to be accompanied by police officers back to his house.
6. According to the Assistant Chief (PW4), he saw the body of the deceased lying in the accused's house. Blood was oozing from her head. Next to it was a bloodstained axe with a metal handle.
7. From the post mortem report produced under section 77 of the **Evidence Act**, the death resulted from cardiopulmonary arrest due to severe head injury.
8. Applying the precedents in *Bhatt v Republic* [1957] E.A. 332 and *R v Kipkering arap Koske & another* 16 EACA 135 (1949); and, upon the digest of the evidence of *all the seven* witnesses, I find that the Republic has established a *prima facie* case against the accused.
9. Accordingly, under the provisions of section 306 (2) of the **Criminal Procedure Code**, I place the accused on his defence.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MURANG'A THIS 25TH DAY OF JANUARY 2022.

KANYI KIMONDO

JUDGE

Ruling read in chambers in the presence of:

The accused.

Ms. Mwangi holding brief for Mr. Kurauka for the accused.

Ms. A. Otieno for the Republic.

Ms. Susan Waiganjo, Court Assistant.