



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 8 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

PETER NG'ANG'A KAMAU.....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 19th October 2013 at Mitero village, Gatundu North District, within Kiambu County, jointly with others not before the court, he murdered *George Kiringa Gathoni*.
3. He pleaded *not guilty*. The prosecution lined up *nine* witnesses.
4. Learned counsel for the Republic and that of the defence did *not* file submissions.
5. I have paid heed to the evidence of the key witnesses. For instance PW1 and PW2 testified that on the material day, the accused with the assistance of another, tied the deceased to a post claiming the deceased had stolen his scrap metal. The accused was wielding a *rungu*.
6. PW7 had earlier witnessed Police Sergeant Karumba (PW8) release the deceased into the hands of the accused and other people ostensibly to go resolve the issue of the scrap metal privately. PW7 said the accused was begging the police not to leave him in the hands of those people as he feared for his life.
7. PW3 and PW5 saw the accused with the help of others drag a blood-stained person into their compound. His dentures were broken and he was bleeding in the mouth. The deceased was taken to a number of hospitals but died a few days later.
8. There is then the Post Mortem Form produced by PW9 under section 77 of the **Evidence Act** showing that the deceased died from a lower respiratory tract infection and head injury following a *blunt force trauma*.
9. 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 nine* witnesses, I find that the Republic has established a *prima facie* case against the accused.
10. 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 28TH DAY OF SEPTEMBER 2021.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of:

The accused.

Ms. Waititu holding brief for Ms. Waithera Mwangi for the accused.

Ms. A. Gakumu for the Republic.

Ms. Dorcas Waichuhi & Ms. Susan Waiganjo, Court Assistants.