



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BOMET

CRIMINAL CASE NO. 15 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

WESLEY CHERUIYOT LANGAT.....ACCUSED

RULING

1. The Accused Wesley Cheruiyot Langat was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on the 2nd day of September 2018 at Kapsimotwa sub-location, in Bomet Sub-County within Bomet County murdered Judy Chemutai Bii.

2. The trial proceeded before Muya J between 30th October 2018 and 29th April 2019 when he heard five prosecution witnesses (PW1 – PW5). Thereafter Dulu J took over the trial on 30th September 2019 and heard two witnesses (PW6 and PW7). I subsequently took over the trial and took the evidence of the Investigating Officer (PW8) on 4th May 2021 and thereafter the Prosecution closed their case.

3. The summary of the prosecution case as stated in the evidence on record is that the Accused and the deceased were in an intimate ‘come we stay’ relationship which was punctuated by violence. The relationship came to an abrupt end on the morning of 3rd September 2018 when the deceased was found lying naked and unconscious some 70 metres away from the Accused’s house. She died shortly after being evacuated to her brother’s house. Her blood stained clothes were allegedly recovered from the Accused’s house where she was suspected to have spent the night with the Accused. The prosecution also produced a Government analyst’s forensic report containing the Accused’s and deceased’s DNA as found in their clothing.

4. The Prosecution has submitted that the evidence on record has established a *prima facie* case against the Accused. That the circumstances of the offence were such that the Accused ought to be put on his defence. The defence has on the other hand submitted that the evidence before court was merely circumstantial and did not meet the legal threshold of proof beyond reasonable doubt.

5. I am cognizant that I am not required at this stage of the proceedings to render a detailed analysis of the evidence. See **Republic V Samuel Karanja Kiria Cr. Case No.13 of 2004 Nairobi [2009] eKLR**.

6. I am further guided by the definition of a *prima facie* case by the Court of Appeal in **Anthony Njue Njeru –vs- Republic (2006) eKLR** citing the case of **Ramanlal Trambaklal Bhatt V R [1957] E.A. 332 at p. 334-335** thus:-

“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 a conviction.”

....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.”

7. I have carefully considered all the evidence on record; the written submissions of State filed on 23rd June 2021; and, the written submissions of the Accused filed by defence counsel on 16th July 2021. It is my finding that the totality of the Prosecution evidence establishes a *prima facie* case against the Accused. He has a case to answer. I invite him to elect the mode of defence in accordance with Section 306 of the Criminal Procedure Code.

8. Orders accordingly.

RULING DELIVERED, DATED AND SIGNED THIS 28TH DAY OF SEPTEMBER, 2021.

.....

R. LAGAT-KORIR

JUDGE

Ruling delivered in the presence of the Accused, Defence Counsel Mr. Kipngetich, Mr. Murithi for the DPP, and Kiprotich (Court Assistant).