



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MURANG'A**

**CRIMINAL CASE NO. 32 OF 2012**

**[FORMERLY NYERI HCCR NO. 6 OF 2012]**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOHN MAINA MUCHERU.....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 30<sup>th</sup> December 2011 at Gatabua village, Kangari Sub-Location, Kangari Location within Murang'a County, he murdered *Joseph Ng'ang'a Mucheru*.
3. He pleaded *not guilty*. The prosecution managed to call five witnesses.
4. Learned counsel for the accused filed submissions on 3<sup>rd</sup> May 2021. The Republic did *not* lodge its submissions.
5. I have paid heed to the evidence of the key witnesses. For instance PW1 testified that on the material night, he saw the accused beating up the deceased or hitting him with an object. He and others helped to ferry the deceased to Kigumo Health Centre. He said that the deceased had some visible head injuries.
6. PW2 is a sister of the accused and the deceased. When she, PW3 and PW4 went to the scene, albeit separately, they found the deceased bleeding from the forehead and unable to talk.
7. The deceased was transferred from Kigumo Health Centre to Murang'a Hospital and ultimately to Kenyatta National Hospital where he died on 4<sup>th</sup> January 2012.
8. The accused was arrested at his home on 1<sup>st</sup> January 2012 by Police Sergeant Karani (PW5) and another officer. At the time, the complaint related to assault.
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 five* 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 23<sup>rd</sup> day of September 2021.

**KANYI KIMONDO**

**JUDGE**

**Ruling read in open court in the presence of:**

The accused.

Mr. S. Kirubi for the accused.

Ms. A. Gakumu for the Republic.

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