



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CRIMINAL CASE NO. 22 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

RICHARD NDWIGA WAMBUGU.....ACCUSED

PETER KINYUA KANGICHU.....ACCUSED

JOSEPH KARIUKI NDWIGA.....ACCUSED

JOSEPH NJERU NDWIGA.....ACCUSED

NANCY WANGIRI.....ACCUSED

RULING

A. Introduction

1. This is a ruling on whether the accused persons herein have a case to answer and should consequently be put on their defence.
2. The accused herein are jointly charged with the offence of murder of Jackson Kariuki Namu contrary to **Section 203 as read with Section 204 of the Penal Code**. The particulars of the offence are that on the 29/03/2014, at Ngenge village, Gatari sub-location within Embu County, jointly with others not before court murdered Jackson Kariuki Namu. The accused persons all pleaded not-guilty to the charge.
3. The prosecution called eight (8) witnesses in support of their case which is summarised herein.

B. Prosecution Case

4. The prosecution case was that on the 29/03/2014 at around 5.00pm PW1 received a call from her mother, PW2, informing her that the deceased, her brother, and the 2nd accused who was her uncle had quarrelled. She proceeded to Ngenge village where she found the deceased kneeling down with injuries on the head. She testified that there was a group of people around him including the 1st, 3rd, 4th and 5th accused armed with various weapons who beat the deceased.
5. PW1 testified the 3rd accused hit the deceased on the head with a piece of wood whereas the 4th accused hit the deceased on the head with an axe. She further testified that the 4th accused then asked the deceased's father what to do with the deceased to which he replied "just finish him" and subsequently threw a matchbox to the 1st accused. PW1 testified that the 3rd accused the collected dry maize stocks, dry banana leaves and put them on the deceased as he lay on the ground after which the 1st accused poured paraffin on the deceased and set him on fire.
6. The facts of the case is that PW1 was informed that the deceased and his uncle the 2nd accused had quarrelled. He proceeded to Ngenge village where he found the deceased kneeling down with injuries and being assaulted by the 1st, 3rd, 4th and 5th accused persons. He was later set on fire.
7. The deceased later died of the injuries inflicted on him as the accused persons were arrested and later charged with the offence.
8. I have carefully perused the entire evidence in this case and I am satisfied that the prosecution have made up a *prima facie* case against the five accused.

9. I find that all the accused persons have a case to answer and are hereby called upon to make their defences.

10. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 30TH DAY OF JANUARY, 2020.

F. MUCHEMI

JUDGE

In the presence of: -

Mr. Momanyi for 1st – 4th Accused

Mr. Ithiga for 5th Accused

1st – 5th Accused