

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

HCCRC NO.81 OF 2017

FORMERLY MACHAKOS HCCRC. NO. 34 OF 2016

REPUBLIC.....PROSECUTION

VERSUS

ONESMUS NTHALE MUTUARESPONDENT

RULING

1. The accused is facing a charge of murder contrary to section 203 and 204 of the Penal Code. The particulars being that the accused on the 18th August, 2016 at Mavivye sub-location, Malili location of Mukaa sub-county within Makueni county murdered **Gideon Mutungi Kimweli**.
2. After calling a total of nine (9) witnesses including the doctor who did the postmortem, the prosecution closed its case.
3. The matter is now for ruling on whether the prosecution has established a prima facie case against the accused or not.
4. I have considered all the evidence on record. Mr. Nthiwa for accused filed written submissions which I have also considered.
5. The evidence of Pw1-Pw3, Pw5 and Pw6 is clear on what transpired at the scene, and the evidence clearly places the accused there.
6. The postmortem report (EXB5) shows the cause of death as chest injury secondary to stab wound/perforation of injury.
7. I am satisfied that the prosecution has made a prima facie case requiring the accused to make his defence. I accordingly place him on his defence under section 306(2) of the Criminal Procedure Code.

Orders accordingly.

Delivered, signed & dated this 26th day of February 2020, in open court at Makueni.

.....

H. I. Ong'udi

Judge