



REPUBLIC OF KENYA

IN THE HIGH COURT KENYA

AT MERU

CRIMINAL CASE NO.20 OF 2018

REPUBLIC.....PROSECUTION

VERSUS

STEPHEN KINYUA.....1ST ACCUSED

RAHAB KANANU.....2ND ACCUSED

RULING

1. Stephen Kinyua Ikiao and Rahab Kananu were jointly charged with the offence of murder in 2 counts contrary to section 203 as read with section 204 of the penal code.
2. Particulars are that the accused persons on 30th day of November 2012 at Kabari village, Mbaranga location within Tigania East subcounty within Meru County jointly with others not before court murdered Geoffrey Mutuma.
3. In Count II the particulars were that the accused person on 30th day of November 2012 at Kabari village Mbaranga Location within Tigania East subcounty within Meru County jointly with others not before court murdered Alex Munene.
4. The prosecution called 6 witnesses to support their case. In consideration of the prosecution evidence and in consideration of the submissions by defence counsel this court finds that a prima facie case has been established against Stephen Kinyua Kiao, A1 in whose presence the deceased children were stripped naked, kicked and whipped using stinging nettle some of which were stuffed into their mouth with soil. This court therefore finds that A1 has a case to answer and is placed on defence.
5. As for A2 evidence adduced shows that she reported that her money had been stolen from the house and suspected the deceased children jointly with PW1 who had earlier in the day gone to fetch water from her home. In company of Gaturuku and Mukia went at night to get the 3 children but when she reached her home she entered the house as the Assistant chiefs, Youth wingers/vigilantes retreated some distance away and started torturing the children and inflicted fatal injuries. The Assistant chief authority is to protect the rule of law and not to use it as a means to get information from persons in his custody. A2 cant be blamed for what Assistant chief and his youths did as they are adults and were responsible for their actions.
6. This court therefore finds that A2 has no case to answer and she is acquitted under Section 306 (1) of the Criminal Procedure Code.
7. A1 is placed on defence under section 306 (2) of Criminal Procedure code.

HON.ANNE ADWERA ONG'INJO

JUDGE

DATED AND DELIVERED VIA MICROSOFT TEAM AT MERU ON THIS 30TH DAY OF JULY 2020.

HON.ANNE ADWERA ONG'INJO

JUDGE

In the presence of:-

Mr Muriuki Advocate for accused

Ms Mbithe for state

Accused 1 - In Counsel Chambers

Accused 2 -

Mr Kinoti – Court Assistant

HON.ANNE ADWERA ONG'INJO

JUDGE