

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL CASE NO. 54 OF 2009

REPUBLIC

VERSUS

PETER KANYI WANGARI.....ACCUSED

RULING

1. The accused was charged with the three counts of murder contrary to Section 203 as read with Section 204 of the Penal Code; on Count I he is accused of having murdered Martin Muriithi Wagaki on the 2nd November, 2009 at Endarasha Trading Centre; on Count II he is accused of having murdered Scolastica Wairimu Wagaki on the same date and at the same place; and on Count III he is accused of having murdered Jane Wagaki Kinyua on the same date and at the same place;

2. On the 26th November, 2009 the accused entered a plea of not guilty on all the Counts and the matter was listed to commence hearing on the 23/03/2010; the matter proceeded for hearing and was part-heard by Hon. Serگون J who heard a total of three (3) prosecution witnesses before he proceeded on transfer to another station;

3. On the 23/01/2013 the rights of the accused under Section 200 of the Criminal Procedure Code were explained to him in a language that he understood, that is in Kiswahili, and he elected that the matter proceeds from where it had reached;

4. At the hearings hereof the accused was at all times represented by Learned Counsel Ms Mwai whereas Mrs. Gicheha took over from two other Prosecuting Counsels namely Ms Ngalyinka and Ms Maundu; both had previously prosecuted the case; the prosecution called a total of nine (9) witnesses in support of its case; at the close of the prosecution case counsel for the accused was invited to make submissions as to whether the prosecution had made out a case to requiring him to be called upon to defend himself; both counsel for the accused and the state made no submissions and both opted to rely on the evidence on record;

5. After having addressed the evidence on record this court is satisfied that even though the prosecution is relying on circumstantial evidence, regardless of its weight, there is a scintilla of evidence that warrants putting the accused person on his defence; reference is made to the case of **Ramanlal Bhatt vs Republic (1957) EA**.

6. For the forgoing reason this court finds that there is evidence that irresistibly points to an inference of guilt which could support a conviction; and finds that the prosecution has made out a prima facie case against the accused that warrants him to be placed on his defence to answer to the charges; his rights and options will be put to him before he presents his defence;

Orders Accordingly.

Dated, Signed and Delivered at Nyeri this 28th day of March, 2019.

HON.A.MSHILA

JUDGE