

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

CRIMINAL (MURDER) CASE NO. 18 OF 2016

REPUBLIC.....PROSECUTOR

-VERSUS-

ZACHARIA KIPSIELO RONO.....1ST ACCUSED

ROSALYNE CHEPNGETICH TANUI.....2ND ACCUSED

RULING

The accused persons were on the 27th March 2016 charged with the offence of Murder Contrary to Section 204 of the Penal Code. The victim of the Murder Esther Chepkoech Langat was wife to the 1st accused and mother to the 2nd accused.

The deceased met her death at her homestead. The only people who were present were the husband – 1st accused, Rosaline Chepnetich Tanui – 2nd Accused, and **PW2** son of the deceased.

PW2 placed the 1st accused at the scene of crime whereof he testified having found his father – 1st accused stepping on the deceased body outside the house holding an iron rode. He however did not see his father commit the crime.

None of the four witnesses pointed to the 2nd accused as having participated in the commission of the offence though she was within the homestead.

It is worth to note that prior to the death the 1st accused and the deceased had an altercation upon which the 1st accused is alleged to have thrown the deceased outside the house where the assault took place.

The 2nd accused remained inside the house all the time.

Upon the above circumstantial evidence, a *prima facie* case has been established against the 1st accused to warrant him explain the circumstances leading to the deceased death.

I therefore find that the 1st accused has a case to answer to explain how the deceased died and who inflicted the fatal blow on her head with a blunt object.

As for the 2nd accused, it is my finding that no *prima facie* case has been established against her.

Suspicion alone cannot be a basis for requiring an accused person to explain and answer to a charge of murder. She is acquitted the under the provisions of Section 306(1) of the Criminal Procedure Code.

Dated, signed and delivered this 28th Day of March 2019.

J.N. MULWA

JUDGE