



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MURANG'A
CRIMINAL CASE NO. 25 OF 2012
[FORMERLY NYERI HCCR 36 OF 2011]

REPUBLIC.....PROSECUTOR

VERSUS

WILLIAM MBURU MUNGAI.....ACCUSED

RULING

1. The accused is charged with *murder* contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars are that on the night of 16th and 17th November 2011 at Gatune village, Githima Sub-location, Murang'a County, he murdered *Evans Mungai Kibunja*.
3. He pleaded *not guilty*. The prosecution called six witnesses. Learned counsel for the accused, *Mr. Kirubi*, filed submissions on 31st January 2019. Learned Prosecution Counsel, *Ms. Gichuru*, opted *not* do so.
4. I have considered the submissions and the *circumstantial* evidence surrounding the homicide. I have in particular paid close attention to the evidence of PW1 and PW2 which *suggests* that the deceased and his son (the accused) had an *altercation* on the material night. The two were living in the *same* compound. The body of the deceased was found there the following morning. There is the additional evidence from the pathologist (PW5) and that of the investigating officer (PW6).
5. I am well guided by *Bhatt v Republic* [1957] E.A. 332, *R v Kipkering arap Koske & another* 16 EACA 135 (1949). On the summation of the evidence of the *all* the six witnesses, I am persuaded that the Republic has established a *prima facie* case against the accused.
6. Accordingly, under the provisions of section 306 (2) of the Criminal Procedure Code, I put the accused on his defence.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 27th day of March 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Mr. Kirubi for the accused.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.