



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 16 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

CHARLES MWANGI WAIRIMU.....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 6th September 2013 at Gathiani Sub-location, Makomboki Location within Murang'a County, he murdered *Virginia Wanjiru*.
3. He pleaded *not guilty*. The prosecution lined up *nine* witnesses.
4. The prosecution's case is largely built on *circumstantial* evidence.
5. PW4 worked in a *hair salon* with the deceased. She said that on 6th September 2013, the accused *stole* a mobile phone make *Bird* and Kshs 500 from the salon. The cellphone belonged to the deceased's brother. The deceased recovered the cellphone from the accused. She told the witness that the accused had *threatened* her with a knife.
6. The Kshs 500 was recovered from the accused through the intervention of a village elder (PW5). The deceased was murdered the same evening on her way home.
7. There is then the evidence of PW2 and PW8. It *suggests* that another cellphone make *Forme* gifted to the deceased by PW2 was *sold* by the accused to a person named *Njuguna* a few days after the murder. There is the additional evidence from the pathologist (PW9).
8. Applying the test in *Bhatt v Republic* [1957] E.A. 332 and *R v Kipkering arap Koske & another* 16 EACA 135 (1949) I find that the Republic has established a *prima facie* case.
9. Accordingly, under the provisions of section 306 (2) of the **Criminal Procedure Code**, I place the accused on his defence.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 24th day of June 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Ms. R. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.