



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 15 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

LABAN KAMAU KIARIE.....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 diverse dates between 27th May 2014 and 29th May 2014 at an unknown time at Kigio Sub-Location, Gatanga District, within Murang'a County, he murdered *Margaret Wanjiku Kamau*.
3. He pleaded *not guilty*. Twelve witnesses took to the stand.
4. The prosecution's case is largely built on *circumstantial* evidence. The body of the deceased was retrieved from a well or a borehole. According to PW1 and PW2, the accused had worked for the deceased for about seven months. The accused and deceased were living in the same compound.
5. PW6 and PW7 claimed that a mobile phone belonging to the deceased was later discovered in the house of the accused. PW10 claimed that the accused said he had thrown a knife and other items into a pit latrine (exhibits 2 to 6). All except the knife were recovered by PW4 from the latrine. PW5 said the knife was found in a blue bag inside the mud house occupied by the accused.
6. The death is not in doubt. But the post mortem examination could *not* ascertain the cause owing to *decomposition* of the remains.
7. On the totality of the evidence; and, 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.
8. 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 25th day of July 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Mr. J. Mbutia for the accused.

Ms. R. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.