



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MURANG'A

CRIMINAL CASE NO. 4 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

STEPHEN MWANGI GACHIRI.....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 25th December 2013 at Kangondu village, Kigumo Location within Murang'a County, jointly with others not before the court, he murdered *Joseph Kamande Gachiri*.
3. He pleaded *not guilty*. The prosecution lined up *eight* witnesses. The prosecution's case is largely built on *circumstantial* evidence and a *dying declaration*.
4. The accused is a *nephew* of the deceased. According to Police Constable Ochieng (PW6), on 25th December 2013 at about 14:55 hours, the deceased found him at the Report Desk at Kigumo Police Station. He was bleeding from the head. He told him he had been assaulted by three people including the accused. PW6 advised the deceased to seek treatment. PW6 later learnt that the deceased died at Murang'a Hospital.
5. According to the area chief (PW7) a report was made on 26th December 2013 by Peter Kagwi (PW3) and Kamande Kariuki that the deceased was injured in a road traffic accident. However, the investigating officer (PW8) said that whereas there was a trail of blood running from the middle of the road, there were no skid marks or evidence of an impact with a vehicle.
6. I have also paid heed to the evidence of the pathologist (PW5). The cause of death was *head injury from a blunt object*.
7. 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. Kirubi for the accused.

Ms. Gichuru for the Republic.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.