

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 49 OF 2017

REPUBLIC.....PROSECUTOR

VERSUS

MIRIAM MURINGE.....ACCUSED

RULING

Miriam Muringe, hereinafter called ‘the accused’, is charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. It is alleged that on the night of 27th November 2016 in Ogopa Village Mowlem within Dandora within Nairobi County she murdered Brian Munyui Gakumo. When the charges were read to her, the accused pleaded not guilty.

The case for the prosecution is supported by evidence of ten (10) witnesses. After the prosecution closed its case, it is the duty of this court to consider the evidence to determine whether it makes out a prima facie case against the accused person to require her to testify in her defence.

The defence counsel Mrs. Omung’ala made submissions on behalf of the accused. I have read and considered the submissions. The accused questions the evidence of the prosecution witnesses in respect to how the accused and the deceased related and for being contradictory. She also criticized the Investigating Officer to failing to conduct investigations. The prosecution opted not to submit at this stage of the trial.

The evidence by the prosecution witnesses, specifically Emily Anyango Onguka (PW5) and Yvonne Kang’endo (PW6) both neighbours of the accused and the deceased at Mowlem show that the accused and the deceased did not live in a peaceful relationship. On 27th November 2016 the two quarreled leading to a confrontation during which the accused is said to have stabbed the deceased. There is no eye witness to the stabbing but Emily witnessed the deceased throwing accused’s clothes outside. Shortly thereafter there was screaming. According to Yvonne the accused was screaming calling for help to take the deceased to hospital. There is further evidence by Kennedy Ndichu Gakumo (PW3) brother to the deceased that the deceased told him that it was Miriam who had stabbed him. I have found no other evidence that there was someone else with the accused and the deceased when the stabbing occurred.

The evidence from Dr. Charles Muturi (PW7) confirms that the deceased had sustained a stab wound on the left mid-section of the chest. The opinion of the doctor is that the deceased died as a result of overwhelming septic shock due to overwhelming infection of the blood system and organs secondary to stab wound. From the evidence of Jackline Njeri (PW1) mother of the deceased and Kennedy the brother, the deceased did not receive proper medical attention and in my view this in-and-out of hospital and prolonged stay at home without medical attention may have contributed to the infection. Despite this, it is my opinion that the stab wound inflicted on the accused, coupled with neglect by the relatives in ensuring that the deceased received medical attention, caused a ripple effect that subsequently led to the death of the deceased. The evidence on record points directly to the accused and no one else as the culprit.

I have considered the evidence and the submissions. It is my finding that a prima facie case has been established against the accused person. It is my finding that the accused has a case to answer. I will proceed to place her on her defence in compliance with Section 306 (2) of the Criminal Procedure Code. I hereby inform her of her right to address this court on the manner in which she wishes to give her defence and whether she will call witnesses. Orders shall issue accordingly.

Dated, signed and delivered this 26th September 2019.

S. N. Mutuku

Judge