

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MAKUENI

HCCR NO. 166 OF 2017

FORMERLY MACHAKOS HCCRC 8 OF 2015

REPUBLIC.....PROSECUTION

-VERSUS-

ESTHER NDUKU MUTUAACCUSED

RULING

1. **Esther Nduku Mutua** the accused herein stands charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The deceased **Francis Kioko Mutungi** who was a brother in-law of the accused is said to have been killed on the night of 14th and 15th January, 2015 at Kiteini village.

2. The prosecution called a total of ten (10) witnesses whose evidence I have carefully considered. Each of them has stated what they saw, heard and did. The prosecution entirely relied on this evidence.

3. M/s Mbuvi for the accused filed written submissions which I have carefully considered. The prosecution relied on the evidence on record.

4. I agree with the defence that the evidence is circumstantial. That does not however mean it is not worth considering. She also submitted that there was no evidence linking the accused to the offence.

5. Upon thorough evaluation of the evidence, I find that the prosecution has established a case against the accused who is hereby called upon to make her defence under section 306(2) Criminal Procedure Code.

Orders accordingly.

Delivered, signed & dated this 18th day of December 2019, in open court at Makueni.

.....

H. I. Ong'udi

Judge