



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MAKUENI**

**HCCR NO. 150 OF 2017**

**FORMERLY MACHAKOS HCCRC. NO. 40 OF 2014**

**REPUBLIC.....PROSECUTION**

**VERSUS**

**BEATRICE WANTHI MUSEMBI .....ACCUSED**

**RULING**

1. **Beatrice Wanathi Musembi** the accused herein is charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The deceased herein was **Ali Mwapheso Katiwa** a niece to the accused and her husband **Evans Ngatia**.
2. The prosecution called eleven (11) witnesses before closing its case. It relied on their evidence and so did not file any written submissions. M/s B.M Musau and co. advocates filed written submissions at the close of the prosecution case.
3. It is the submission of the defence counsel that there is no evidence linking the accused with the murder of the deceased.
4. That the confession by the deceased was not taken in line with the Evidence Act.
5. I have carefully evaluated the evidence on record and the submissions by the defence. I find there to be sufficient evidence for the accused to be placed on her defence under section 306(2) Criminal Procedure Code which I do hereby do.

Orders accordingly.

**Delivered, signed & dated this 17<sup>th</sup> day of December 2019, in open court at Makueni.**

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**H. I. Ong'udi**

**Judge**