



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**CRIMINAL CASE NO. 59 OF 2014**

**REPUBLIC**

**Versus**

**ANTHONY MWIRIGI.....ACCUSED**

**RULING**

[1] The accused **Anthony Mwirigi** is charged with murder contrary to Section 203 as read with Section 204 of the Penal code CAP 63 of the Laws of Kenya. The particulars of the offence are that on 30<sup>th</sup> August 2014 at Mirigu village, Nyweri Location in Meru Central District within Meru County, murdered Erastus M' Arithi Muchai.

[2] The prosecution called 7 witnesses. Upon close their case, neither the prosecution nor the defence submitted. They intimated to court that they would not be making any submissions.

[3] The task of the court now is to consider the evidence so far tendered by the prosecution to determine whether a *prima facie* case has been established in order to call upon the accused to defend himself. If no such case has been made out at this stage, then the trial court must acquit the accused as provided for under section 306 (1) of the Criminal Procedure Code.

[4] What constitutes a prima facie case was stated in **Ramanlal Trambaklal Bhatt v. R [1957] E.A 332 at 334 and 335**, as follows:

***It may not be easy to define what is meant by a "prima facie case", but at least it must mean one on which a reasonable tribunal, properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence".***

[5] I have carefully considered the evidence tendered by the prosecution. And without saying much, I am satisfied that a *prima facie* case has been made out against the accused person as to require him to answer it. Accordingly, he has a case to answer and he is subsequently placed on his defence.

**Dated, signed and delivered in court at Meru this 29<sup>th</sup> day of May 2018**

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**F. GIKONYO**

**JUDGE**

**In the presence of:**

M/s. Namiti for state

Muna for accused

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**F. GIKONYO**

JUDGE