REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CRIMINAL CASE NO. 8 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

DANIEL CHEPKWONY.....ACCUSED

RULING ON NO CASE TO ANSWER

1. The Accused Person, Daniel Chepkwony ("Accused Person") is charged with murder contrary to section 203 of the Penal Code as read together with section 204 of the Penal Code. He is accused of murdering Esther Jemuge Chepkwony ("Deceased") on 14/02/2016 at Banita Centre, Solai in Rongai within Nakuru County.

2. The Prosecution called eight four witnesses to prove its case. The narrative emerging from the Prosecution witnesses is that the Accused Person, who was the husband to the Deceased, attacked her in their home and inflicted fatal injuries on her head. Two of the witnesses claimed to have heard the commotion and fracas in the home of the Accused Person and Deceased and the Deceased was found seriously injured in the home thereafter. The claim is that only the Accused had access to the home during that time.

3. At this stage in the proceedings, the Court is required to make a finding whether the Prosecution has presented sufficient evidence to require the Accused Person to be put on his defence or whether the case should be stopped at this point. The test to be utilized is the famous one stated in ***Bhatt –vs- R [1957] EA 332:*** whether, as a matter of law – without taking any conclusive view of the credibility and probative value of the evidence presented – the Prosecution has adduced *reasonable sufficient evidence* of the matter in respect of which it has the burden of proof. Reasonable sufficient evidence is one which a reasonable tribunal could convict.

4. In my view, the Prosecution has placed enough material to make this a fit case to require the Accused Person to respond to the evidence adduced.

5. **Consequently, the Court finds that the Accused Person has a case to answer and puts him on his defence. The case shall be set down for defence hearing**.

Delivered at Nakuru this 26th day of July, 2018.

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JOEL NGUGI

JUDGE