

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

CRIMINAL CASE NO. 58 OF 2016

REPUBLIC PROSECUTOR

VERSUS

MOSES NDAU KIMANI ACCUSED PERSON

RULING ON NO CASE TO ANSWER

1. The Accused Person, Moses Ndaou Kimani (“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 Doris Muthoni Maina (“Deceased”) on 20/09/2014 at Githunguchu Location in Gatundu South Sub-County within Nakuru County.
2. The Prosecution called eight seven witnesses to prove its case. The narrative emerging from the Prosecution witnesses was that the Accused Person attacked the Deceased with a knife in the Deceased’s home in the morning of 20/09/2014 and then fled. The testimony claimed that after the Deceased’s screams attracted attention, some people gave chase, caught up with the Accused Person, and arrested him. A pathologist confirmed the death and testified that the cause of death was consistent with the Prosecution theory; and the arresting officer confirmed the manner of arrest.
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 Kiambu this 2nd day of August, 2018.

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JOEL NGUGI

JUDGE