



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NUMBER 103 OF 2014**

REPUBLIC.....PROSECUTOR

VERSUS

ELIJAH OMARI ONDERI.....ACCUSED

**RULING**

Elijah Omari Onderi, the accused, is charged with murder contrary to section 203 as read with section 204 of the Penal Code. Particulars of the offence are that on the night of 19<sup>th</sup> and 20<sup>th</sup> October 2014 at Mihango area within Kayole Nairobi, with others not before the court, murdered Gabriel Oseko Mukaya. The accused has pleaded not guilty to the charge. He is represented by Mr. Masara.

Six witnesses have testified for the prosecution. From their evidence, Gabriel Oseko Mukaya, the deceased was found lying beside the road in Mihango Kayole on the morning of 20<sup>th</sup> October 2014. He has multiple injuries all over his body. He was naked underneath the sheet covering the lower part of his body. Some of the people who went to the scene that morning were Alex Kinara Migosi, PW1 and William Momanyi Moseti, PW3. Near the scene was a house. PW1 and other neighbours entered inside and found the accused lying on a bed. They asked him if he knew the deceased and what had happened. PW1 noticed items scattered in the house and bloodstains and broken sticks. He also noticed bloodstains on the jeans trousers worn by the accused. The matter was reported to the police who went to the scene. They started investigations and arrested the accused person.

The cause of death as testified by Dr. Oduor Johansen, PW5, was head injuries due to blunt force trauma. The doctor confirmed that the deceased had multiple injuries on his upper body and head.

I have considered this evidence and I am convinced that the prosecution has established a prima facie case against the accused. I will therefore proceed to place him on his defence in compliance with Section 306 (2) of the Criminal Procedure Code. Orders shall issue accordingly.

**Dated, signed and delivered this 27<sup>th</sup> day of April 2017.**

**S. N. MUTUKU**

**JUDGE**