



**REPUBLIC OF KENYA**

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

**CHUKA HCCR 32 OF 2015**

**FORMERLY MERU HCCRA NO. 44 OF 2014**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**NATHAN RUNJI NYAGA.....ACCUSED**

**RULING**

1. **Nathan Runji Nyaga** the accused herein is charged with the murder of **Naomi Wamugo** (deceased) on 16<sup>th</sup> June, 2014 at **Ngunga village, Kiaritha** within **Tharaka Nithi County** contrary to section 203 as read with section 204 of the Penal Code. The accused person denied the charge and the prosecution called a total of eight witnesses to prove their case against the accused person.

2. At the close of prosecution case, the defence counsel in her submissions of no case to answer poked holes in the prosecution case contending that no prima facie case had been established to warrant the accused being placed on his defence. M/S Kaaria learned counsel for defence urged me to disregard the prosecution's witnesses account that the accused had confessed to the crime submitting that no admissible statement on confessions was tendered in evidence. She further contended that there was no eye witness to the murder incident and in view of the fact that evidence of **PW3 Josiah Njagi Gichohi** was basically hearsay. In her view, there was no circumstantial evidence connecting the accused with the crime. The defence faulted the evidence of PW4, PW5 and PW6 contending that there was no corroboration in their evidence that suggested that the deceased was killed due to a land dispute between the accused and the deceased.

3. The prosecution on the other hand has maintained that the accused has a case to answer as the evidence they have tendered connects him with the crime. **Mr Machirah learned counsel** for the state submitted that the accused himself surrendered to the police with the murder weapon and volunteered to lead the police to the scene of murder. He contended that the circumstantial evidence tendered by witnesses summoned connected the accused and that a prima facie case has been established.

4. I have considered the evidence tendered and the submissions of both counsels in this case. I do not find it necessary at this stage not go much into the evidence tendered because all the law requires at the state is the evaluation of the evidence adduced and determine if the same establishes a prim a facie case against the accused person sufficient enough to put him on his defence. The threshold is not at this stage high as beyond reasonable doubt. Section 211 of the Criminal Procedure Code simply requires the prosecution to place or present evidence which presents a case against the accused sufficient enough to require him to make a defence. The standard is however high enough such that if the accused person was to exercise his right to remain silent and adduce no evidence on defence, the evidence adduced should be sufficient enough to found a conviction. Applying the standard in this case and again deliberately not going into the details of the evidence of all the witnesses summoned by the prosecution, I am satisfied that a case has been made out against the accused person to answer or be placed on his defence. He has a case to answer.

**Dated and delivered this 18<sup>th</sup> day of May, 2017**

**R. K. LIMO,**

**JUDGE.**