

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA
CRIMINAL CASE NO.17 OF 2011

REPUBLIC.....PROSECUTOR

VERSUS

STEPHEN NANDWA OCHIENG.....ACCUSED

RULING

The accused herein, **Stephen Nandwa Ochieng**, has been charged with the offence of murder contrary to *section 203* as read with section 204 of the penal code. Particulars of the offence are that on the night of 13th and 14th day of March, 2011 at unknown time at **Musoma Village, Manyalla location of Butere District** within Kakamega County, he murdered **Felister Anyango Ogola**.

The prosecution called 5 witnesses. PW1 is the Doctor who performed a post mortem and confirmed that the deceased had died of asphyxia due to strangulation. PW2 is a police officer who arrested the accused and made a recovery of some items belonging to the deceased in a sugarcane plantation after he was led there by the accused.

PW3 told the court that she heard the deceased (her co-wife) call "**Dado**", the accused to return her hoe on the evening of 13th March, 2011 at about 9 p.m.; but found the deceased dead on the following morning. She is the one who opened the door to the deceased's house on request from the police. They found a mattress and some bed sheets missing and which the police found in the sugarcane plantation.

PW4 was present when the accused was arrested and witnessed the accused lead the police to the sugarcane plantation where discovery of the deceased's items were made. The body was taken to the mortuary and he later collected the body for burial.

From the evidence of these witnesses especially that of PW2, PW2 and PW4 and the fact that the body that was found belonged to the owner of the items recovered, and that the accused led the police to where the items were recovered, raises a **prima facie** case against the accused to call upon him to defend himself. I therefore put the accused on his defence.

Dated and delivered at Kakamega this 25th day of February, 2016.

E.C. MWITA

JUDGE