



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 30 OF 2014**

REPUBLIC.....PROSECUTOR

VESUS

LYDIA WAMUYU WAMBUI.....ACCUSED

**RULING**

Lydia Wamuyu Wambui, the accused, is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the offence are that on the 12<sup>th</sup> day of April 2014 at Mutuini Village in Dagoretti District within Nairobi County she murdered Peter Muthami Wambui. The accused denied committing this offence.

Six witnesses testified for the prosecution. According to their testimony, the accused lived with the deceased as man and wife for about two weeks prior to 12<sup>th</sup> April 2014. On that day the accused returned home drunk and went to sleep in his house. At the time the accused was visiting with her sister. When she returned home, she was cautioned by Ann Wanjiku Muchane, PW3, not to go into their house but to let the deceased sleep. The accused stayed with Ann in her house. Ann was their neighbour and had rented a house in that homestead. About 7.00pm or 7.30pm the accused went to ask for money from the deceased who had woken up by this time. She was given 150 shillings. She went to buy food for their supper. She returned home and started preparing supper. As she was chopping vegetables, the deceased accused her of stealing his 200 shillings which the accused denied. A quarrel ensued and the accused stabbed the deceased with the kitchen knife she was using to cut the vegetables. The accused went out of the house and the deceased locked the door from inside.

The accused went to Ann's house carrying the knife which was blood stained. Ann picked the knife and kept it. She went to check on the deceased and called other neighbours including the accused's relatives. They tried to spy into the house where the deceased was without success. They could not gain access since the door was locked from inside. They forced open the bedroom window and with the help of a small boy who went in through the window, the door was opened. They entered the house. They found the deceased alive but breathing in a labored manner. He died immediately after. The accused was arrested and charged with this offence.

At the close of the prosecution case, Mrs, Kinyori advocate for the accused told the court that she did not wish to submit at this stage of the trial. The prosecution counsel Ms Magoma did not submit on behalf of the prosecution.

I have considered the evidence on record and I am satisfied that it establishes a prima facie case against the accused person. Consequently, I hereby place the accused person on her defence. This court hereby informs the accused of her rights under section 306 (2) of the Criminal Procedure Court to inform this court whether she will give her defence under oath or without taking the oath and whether she wishes to call any witnesses. Orders shall issue accordingly.

**Dated, signed and delivered this 16<sup>th</sup> day of June 2016.**

**S. N. MUTUKU**

**JUDGE**

**In the presence of:**

Ms Magoma for the prosecution

Mrs. Kinyori for the accused

Ms Lydia Wamuyu Wambui, the accused

Mr. Daniel Ngumbi, court clerk