

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 61 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

ANNEX MUKUHI WANJIKU.....ACCUSED

RULING

Annex Mukuhi Wanjiku, the accused, is facing prosecution for the murder of M. W. N (deceased) a minor aged about 5 years contrary to section 203 as read with section 204 of the Penal Code. It is alleged that the accused committed this offence on or about 22nd day of December 2012 at (location concealed) in Kiambu County.

The evidence presented by the prosecution is that the deceased, the daughter of J. N. W (PW1) and J. K (PW3), was sent to the shop on 22nd December 2012 at about 6.30pm to buy charcoal and onions. She found the shopkeeper, Mary Wanjiku Mbugua (PW2) and her husband Joseph Mbugua Mathu (PW9). Mary sold charcoal and onions to the girl but before she gave her change of Kshs 5/- two boys identified as B. and J. sons of the accused person and cousins of the deceased entered the shop. PW2 told the court that when the deceased saw them her mood changed “**as though she did not want anything to do with them**”. She forgot to take the change. PW2 gave the change to B. the bigger boy. The three children left the shop. Shortly after this, deceased’s mother J. K went to the shop looking for her daughter. Evidence shows that the deceased took long to return home and it was getting dark. This worried her parents prompting the mother to go looking for her. The mother did not find the deceased. She started the search. She was told by Lucy Njoroge (PW5) and Lucy Wangui (PW6) both minors that they had seen the deceased with the two sons of the accused and that the accused had gone towards Gitwe with the deceased.

The deceased was not found that day. This caused a disagreement between the deceased’s parents, the accused, who is brother to deceased’s father and their mother. Police intervened and took the accused away. The body of the deceased was found on 24th December 2012 dumped at a path. Evidence shows that the body looked as though it had been dumped there after the night rain because it had not been rained on.

I have considered this evidence and I am satisfied that a prima facie case against the accused person has been established. Consequently, I find that the accused has a case to answer. I hereby put her on her defence. She is informed of her right to inform this court the manner in which she wishes to defend herself, either by taking oath or without taking oath and is also informed of her right to call witnesses in compliance to section 306 (2) of the Criminal Procedure Code. Orders shall issue accordingly.

Dated, signed and delivered in open court this 21st day of July 2016

S. N. Mutuku

Judge

In the presence of:

Ms Macharia for the prosecution

Mrs. Nyamongo for the accused

Annex Mukuhi Wanjiku, the accused

Mr. Daniel Ngumbi, court clerk