

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 105 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

TEVIN GADDAFI NYANGENDO alias DAN.....ACCUSED

RULING

Tevin Gaddafi Nyangendo alias Dan is charged with murder contrary to section 203 as read with section 204 of the Penal Code. It is alleged in the particulars of the offence that on the 4th day of November 2014 at Umoja III Estate within Nairobi County he murdered Lucy Wambui Githaiga. The accused has denied committing this offence.

To support the case against the accused, the prosecution has called a total of eight (8) witnesses. From the evidence gathered from these witnesses, the accused and the deceased lived in Umoja III as a couple since 2001 as testified by Shadrack Ngariuuo (PW1) the son of the deceased. On 5th November 2014 around 10.00pm their neighbour, Mr. Jacob Otieno (PW2) heard them quarrelling. PW2 went outside his house and stood at the balcony from where he could see the house of the quarrelling couple. He heard the accusing shouting “umenikata” (“you have cut me”). Shortly thereafter PW2 heard the deceased say “umenindunga” (“you have stabbed me”). PW2 decided to go outside his house. He saw the accused at the gate going out of the compound. PW2 thought the accused was attempting to escape and followed him. He managed to stop the accused near a medical clinic and asked him why he was leaving after stabbing the deceased but the accused told him that he wanted to seek first-aid. PW2 with some help took the accused, who had a bleeding cut on his forehead, to Mama Lucy Hospital. The deceased was also taken to the same Hospital where she died. The accused was arrested and later charged.

Doctor Dorothy Njeru (PW4) who examined the body of the deceased told the court that the deceased had a stab wound measuring 6cm long on the left side of the head above the ear. She further testified that the deceased had lost a lot of blood due to that stab wound and that her body was pale. After the examination, the doctor formed the opinion that the deceased died due to exsanguination due to stab wound.

I have considered the evidence of the 8 prosecution witnesses on record and I am satisfied that it establishes a case on which this court, properly directing its mind to the law and the evidence, could convict if no explanation is offered by the defence. Consequently, it is my finding that the accused person has a case to answer. I will and do hereby place him on his defence. In compliance to section 306 (2) of the Criminal Procedure Code, the accused is hereby informed of his right to address the court as to how he wishes to tender his evidence in his defence and whether he will be calling any witnesses. It is so ordered.

Dated, signed and delivered this 13th day of December 2016.

S. N. Mutuku

Judge