



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 37 OF 2012**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**FRANKLINE OTIENO ASILI..... ACCUSED**

**RULING**

1. **Frankline Otieno Asili** is facing trial for the murder of John Ngige Gitau. The particulars of the charge are that on the night of 28<sup>th</sup> and 29<sup>th</sup> August 2009 at **Ruku Village** in **Kiambu County** jointly with others not before court murdered **John Ngige Gitau**.

2. PW1 Simon Gitau Ngige testified that he found his deceased father’s house open on the morning of 29<sup>th</sup> August 2009. He entered the house and even entered the bedroom when his father failed to respond to his call. He informed relatives and reported to the police that his father was missing. Later the body was discovered in the banana farm behind the house. Cpl.Virginia produced photographs documenting the scene on behalf of Cpl. Wasike (now deceased) who was the scenes of crime officer. The photographic evidence shows the deceased’s body lying in the banana garden with his hands tied with a rope.

3. PW3 Pius Kamende’s evidence was limited to facilitating the identification of the body at the mortuary. The pathologist Dr. Johansen Oduor performed an autopsy on the deceased and concluded that he died of strangulation.

4. PW2 Mary Nafula Wahungu testified that she saw the accused setting a phone to one Everlyne on 20<sup>th</sup> May 2010. She knew both the accused and Everlyne.

5. PW8 Sgt. Damaris Matiri testified that she recovered the deceased’s phone Nokia 1200 from the accused and that the accused had no reasonable explanation on how he came into possession of the phone.

6. Having considered the evidence now on record, I find the accused has a case to answer in accordance with Section 306 of the Criminal Procedure Code.

Orders accordingly.

**Ruling delivered, dated and signed at Nairobi this 24th day of April, 2015**

**R. LAGAT - KORIR**

**JUDGE**

In the presence of:

.....: Court clerk

.....: Accused

.....: For the accused

.....:

For the state