

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 84 OF 2011

REPUBLIC.....PROSECUTOR

VERSUS

BERNARD GITHUA KIRAGU.....ACCUSED

RULING

Bernard Githua Kiragu, the accused, is charged with murder contrary to section 203 read with section 204 of the Penal Code. The particulars of the charge read that on 28th day of September 2011 at Wanguthu Village, Kanunga sub-location within Kiambu County he murdered Susan Njeri.

I took over the conduct of this trial after two witnesses had testified before my sister judge Hon. Lady Justice Florence Muchemi. I heard five witnesses. On 14th May 2015 the prosecution closed its case. Both the prosecution and the defence opted not to make any submissions at this stage. This leaves the court with the single task of determining if the prosecution evidence against the accused is sufficient to warrant the accused being put on his defence.

I have examined and analysed all the evidence on record including the reports from the pathologist and the government analyst. My conclusion on the issue at hand is that the evidence is sufficient to lead this court to conclude that a prima facie case has been made out against the accused person to require him defend himself. I will, and do, hereby make a finding that the accused has a case to answer. He is hereby put on his defence.

As required by the law, Section 306 (2) of the Criminal Procedure Code, I hereby inform him of his right to address the court either in person or through his advocate. He has a right to inform this court how he wishes to tender evidence in his defence, either by taking an oath or without taking an oath as well as whether he wishes to call any witnesses in support of his defence.

It is so ordered.

Dated, signed and delivered this 27th May 2015.

S. N. MUTUKU

JUDGE