

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 103 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

NANCY WAITHERA MACHARIA.....ACCUSED

RULING

Nancy Waithera Macharia, the accused before this court, is charged with murder contrary to section 203 read with section 204 of the Penal code. The offence is alleged to have been committed on 8th December 2013 at Mathare Kosovo Slums within Nairobi County. The victim is Peter Njoroge Mwangi, deceased.

Hearing of this case commenced on 7th August 2013 before Hon. Lady Justice Florence Muchemi (Justice Muchemi) who took evidence of five prosecution witnesses. I took over the case on 12th November 2014 following the transfer of Justice Muchemi. I took evidence of four prosecution witnesses after both the prosecution and the defence consented to proceed with the hearing from where Justice Muchemi had reached.

At the close of the prosecution case and submissions by both prosecution and defence counsels, it is the duty of this court to determine whether the evidence on record establishes a prima facie case to warrant the accused being put on his defence.

I have carefully considered the evidence of all the witnesses and the submissions. The defence counsel told the court in submissions that there were major inconsistencies in the evidence of witnesses especially PW1 Rose Wanjiku a neighbour of the accused. I have read this evidence and compared it with that of the other witnesses and without going into the details of what each told the court, it is my finding that I am persuaded at this stage to conclude that the evidence is sufficient to establish a prima facie case against the accused. I make a finding therefore that the accused person has a case to answer and do hereby put the accused on her defence.

Under section 306 (2) of the Criminal Procedure Code, the accused is hereby informed of her right to address the court and inform it on the manner she intends to defend herself, whether by taking an oath or testifying without swearing. She is also informed of her right to inform this court if she wishes to call any witnesses. It is so ordered.

Dated, signed and delivered this 15th day of June 2015.

S.N.MUTUKU

JUDGE

In the presence of:

Ms for the Prosecution

Mr. for the Accused

Ms Nancy Waithera, the Accused

Mr. Daniel Ngumbi, Court Clerk