

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 58 OF 2013

REPUBLIC.....PROSECUTOR

VERSUS

PAUL ODERO NGUKA.....ACCUSED

RULING

Paul Odero Nguka, 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 6th January 2008 at Maalek Hotel and Lodging Githurai 45 in Nairobi County murdered Maureen Akinyi Nguka. The accused was arraigned in court on 28th May 2013 and the plea taken on 4th June 2013. He denied committing this offence. The accused is represented by Mr. Olando.

The prosecution called a total of 11 witnesses. Three of them testified before Honourable Lady Justice Florence Muchemi while eight witnesses testified before me after I took over the proceedings in this case upon the transfer of Justice Muchemi to another station.

At this stage of the trial, this court is required to examine all the evidence and make a finding whether it establishes a prima facie case requiring this court to place the accused on his defence. Briefly the case for the prosecution is that the accused and the deceased were man and wife. They had separated and the deceased was living in Eldoret with Judith Anyango Odhiambo, PW1, who is deceased's sister. There was a case against the accused instituted by FIDA Kenya on behalf of the deceased. The case involved a missing child of the couple and PW1 told the court that the accused had promised to show the deceased where their daughter was. The deceased is said to have left Eldoret on 7th December 2007 to Nairobi to live with the accused after reconciling. At the time the accused was stationed at Kahawa Barracks.

PW1 lost communication with the deceased on 6th January 2008. After all the efforts to contact her sister failed, PW1 travelled to Nairobi on 11th February 2008. Again, her efforts to meet the accused or to find her sister failed.

Evidence shows that the body of the deceased was found in Room 213 of Maleek Hotel and Lodging in Githurai 45 on the morning of 7th January 2008. It was later identified as that of the deceased. The accused was arrested on 24th May 2013 in connection with this case and charged.

I have considered all the evidence of the eleven prosecution witnesses. I am persuaded that a prima facie case has been made out against the accused person. Consequently, I will place the accused person on his defence. Under section 306 (2) of the Criminal Procedure Code he is hereby informed of his right to address this court as to the manner he wishes to defend himself and whether he wishes to call any witnesses in his defence. I make orders accordingly.

Dated, signed and delivered this 22nd day of July 2015.

S. N. MUTUKU

JUDGE