



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO.28 OF 2011**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**1.SAMSON ALUBE NGOTA.....1ST ACCUSED**

**2. ROBISON NGINYA KAMAU.....2ND ACCUSED**

**RULING**

1. **Samson Alube Ngota** and **Robinson Nginya Kamau** are charged with the offence of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars are that on 20<sup>th</sup> March 2011 at Kariobangi South Estate Nairobi within Nairobi area province murdered **Rahab Nyawira**.
2. The prosecution case is that the two accused accosted the deceased and PW1 while on their way home. They pushed the deceased against the wall of a building and when PW1 raised an alarm, the two fled. The deceased stumbled back into her cousin's house which they had just left holding her chest stating “*hawa watu wameniua*” (those people have killed me.) She collapsed on the floor and it was then that PW1 and PW2 realized that she had been stabbed and was bleeding. The murder weapon [Exh. 1] was said to have been recovered from the accused on the night of the incident. Both accused were picked out in an identification parade by PW1. The identification parade was conducted by CI. Peter Mwaura who testified as PW10. PW9 subjected the knife to DNA analysis and concluded that the blood found on it matched that of the deceased.
3. I have carefully considered the prosecution evidence now on record as tendered by the 12 prosecution witnesses who were called. I have also considered the submissions made by the prosecution counsel and defence counsel. It is my considered view that the prosecution has established a *prima facie* case against both accused persons. Each has a case to answer. Each accused may now elect how to proceed with his defence in accordance with Section 306 of the Criminal Procedure Code.

Orders accordingly.

**Ruling, delivered and dated** at Nairobi this 25<sup>th</sup> day of **November, 2015**

**R.LAGAT-KORIR**

**JUDGE**

In the presence of:

.....: Court clerk

.....: 1<sup>st</sup> Accused

.....: 2<sup>nd</sup> Accused

.....: For State

.....: For 1<sup>st</sup> accused/applicant

.....: For 2<sup>nd</sup> accused/applicant