

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 11 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

DANIEL NZOMO MUTUA.....ACCUSED

RULING

Daniel Nzomo Mutua, the accused, is charged with murder contrary to section 203 as read with section 204 of the Penal Code particulars of which are that on 10th January 2012 at Kibera Laini Saba within Nairobi County, he murdered Dorothy Kagendi Nyaga alias Caroline Wambui.

At the close of the prosecution case on 9th November 2015 the duty of this court at this stage of the trial is to determine whether the evidence on record establishes a prima facie case to warrant the placing of the accused on his defence.

I have carefully examined the evidence. PW1 knew the accused and the deceased. They were regular customers at Wasafiri Bar, the scene of the murder. They used to hire a room at Wasafiri Bar for the night. Room No. 5 was their favorite and on 9th January 2012 at 7.00pm they went to Wasafiri Bar and booked Room No. 5. The accused who paid for the room was issued with receipt No. 5715 Exhibit 1. On the following day, PW1 found the deceased injured inside that room with the accused holding her. The accused managed to escape from the scene. The deceased was taken to hospital but died while undergoing treatment. The accused was later arrested and charged.

I find the evidence by the prosecution establishes a prima facie case against the accused person. I will consequently place him on his defence. As required under section 306 (2) of the Criminal Procedure Code the accused has been informed of his right to inform the court how he wishes to defend himself and whether he wishes to call any witness/witnesses in support of his defence. Orders shall issue accordingly.

Dated, signed and delivered in open court this 24th day of November 2015.

S. N. MUTUKU

JUDGE

In the presence of:

Ms Ikol, the prosecution counsel

Mr. Wachira, defence counsel

Mr. Daniel Nzomo Mutua, the accused

Mr. Daniel Ngumbi, court clerk