



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL CASE NO.39 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

PETER MURIMI NGAI.....ACCUSED

RULING

1. The accused is charged with the offence of **murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**.
2. The particulars of the offence are that on the 18th day of May, 2012 at KIAMBARIKA village, Kinangop in Nyandarua South District the accused murder **CAROLINE WANJIKU WAIRUMBI**
3. **Isaac Muruthi Malinga (P.W.1)**, who was the deceased's husband, **Julius Peter Gitahi (P.W.3)** and **Benjamin Muturi Mwithiga (P.W.4)**, all stated in their evidence that they were told that the deceased had drunk poison.
4. **P.W.3** was categoric in his evidence that the deceased had administered it herself and he did not think that the accused was involved.
5. The Investigating Officer, **P.C. George Odongo (P.W.5)**, stated that the initial report received at the police station was of suicide. This was later changed to murder at the instigation of "**P.W.1.**"
6. It was "**P.W.5's**" evidence that he visited the crime scene and retrieved a bottle with the markings "Triatix" "**(Pexb 2).**"
7. He forwarded the bottle to the Government Chemist for analysis and a Report marked as "**PEx4**" was tendered in evidence.
8. The Report confirms that the liquid in the bottle was a pesticide and its contents were detected in the stomach of the deceased.
9. The witness further produced a Report (**Pexb 6**) from North Kinangop Catholic Hospital where the deceased had been taken for treatment which shows that she was undergoing treatment after having consumed "Triatix"
10. The Postmortem Report produced by **P.W.1** is suspect and no medical evidence was adduced to support the fact that the deceased's cause of death arose through strangulation.

11. The evidence tendered by **P.W.5** all points to fact that the deceased's cause of death was caused by pesticide poisoning.

12. There is no direct or circumstantial evidence adduced that incriminates the Accused as to having administered the pesticide poison to the deceased.

13. For the reasons stated above, I find that the prosecution has not established a *prima facie* case against the accused to warrant putting him on his defence.

14. I find that Accused has no case to answer and acquit the accused under **Section 306** of the **Criminal Procedure Code**.

15. The accused to be set at liberty forthwith unless otherwise lawfully held.

It is so ordered.

Dated, Signed and Delivered at Nakuru this 29th day of September, 2014.

A. MSHILA

JUDGE