



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 91 OF 2012**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**ELIZABETH OWUOR ONWARE.....ACCUSED**

**RULING**

The accused **Elizabeth Owuor Onware** is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. She is alleged to have murdered one Linet Osanya on the 29<sup>th</sup> day of October 2012 at Gulukola Estate within Nairobi County. She denied the charge when arraigned in court on 19<sup>th</sup> November 2012 setting the stage for her trial which commenced on 10<sup>th</sup> July 2013.

The prosecution has called a total of 11 witnesses. PW1, PW2 and PW3 testified that on the material date they heard the accused abusing the deceased and a scuffle between the two which ensued. Although none of them saw the accused stabbing the deceased, they later heard the deceased scream that the accused had stabbed her. A kitchen knife was recovered from the scene soon thereafter. Upon the deceased being rushed to hospital, she succumbed to her injuries. PW 9 Dr. Okemo Minda testified that he conducted an autopsy on the deceased and found that the cause of death was a stab wound on the right side of neck. Further, PW 11 C.I. Nahashon Mutua testified to have taken a confession statement from the accused. At the close of the prosecution case on 16<sup>th</sup> July 2014, I invited the prosecution and the defence to make submissions on case/no case to answer.

I have carefully considered the evidence now on record and the submissions filed by counsel. The defence has argued strongly that none of the witnesses saw the accused stab the deceased. Further, the defence has argued that the confession statement was not taken in compliance with the law. However, my analysis of the totality of the evidence on record has led me to the finding that the accused Elizabeth Owuor Onware has a case to answer.

I place her on her defence in accordance with Section 306 of the Criminal Procedure Code.

**Ruling delivered and signed at Nairobi this 27<sup>th</sup> day of October, 2014.**

**R.LAGAT-KORIR**

**JUDGE**

**In the presence of:**

.....: Court clerk

.....: Accused/Applicant

.....: Counsel for Accused/Applicant

.....: Counsel for the State