



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**HCCR NO. 24 OF 2006**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**SIMION MURERWA IGWETA.....ACCUSED**

***LESIIT J.***

**RULING**

The accused is charged with murder contrary to section 203 as read with s.204 of the Penal Code. It is alleged that on 5<sup>th</sup> March 2006 at Kacibi village Makandune Location in Meru Central District murdered Everline Kaimuri Kabiti.

The prosecution called 2 witnesses, the arresting officer and a sister of the accused. The onus is on the prosecution to prove the charge against the accused on the required standard of proof beyond any reasonable doubts.

Evidence was merely that of re-arresting the accused at the prison where he was escorted by members of public one day after the incident.

The prosecution relied on the evidence of PW2 Charity Felix a sister of the accused. Her testimony was that she had spent the day with the deceased the wife of the accused. That at 6 pm they met the accused who insisted he wanted to be shown some land which the deceased brother who was Charity's husband was giving to them to utilize. Charity said that she parted with them outside a bar because both accused and deceased said they wanted to join for a drink. PW2 said she received the news of deceased death later on. PW2 denied knowing anything about the death of the deceased or the circumstances which led

to that death.

Having considered this evidence it is clear to me that the prosecution has no evidence demonstrating how the deceased met her death, the circumstances of the death or who caused it. The court has been left to speculate how the accused is connected to the charge.

I find that the prosecution has failed to establish a prima facie case against the accused to warrant this court placing him on his defence. Consequently I acquit the accused at this stage under section 306 of CPC.

Dated Signed and delivered at Meru this 17<sup>th</sup> day of February 2011

**LESIIT, J**

**JUDGE**