



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

MURDER NO. 13 OF 2009

REPUBLIC.....PROSECUTION

VERSUS

DANIEL LUCAS KIVUVA
MBITHI.....ACCUSED

RULING

The Accused – Danuel Lukas Kivuva Mbithi stands charged with the offence of murder contrary to **Section 204 of the penal code**. He denied the charge and the prosecution closed its case after calling a total of 17 witnesses.

Both counsel made submissions after the close of the prosecution case and furnished the court with several decided cases in support of their stand points.

I have very carefully considered this evidence along with the said very able submissions.

The prosecution case revolves around the credibility or otherwise of PW3 – Florence Wawira – who was the principal witness for the prosecution. Was she or was she not a credible witness? The answer could go either way. The law does not require me to give any reasons at this point for a finding of a case to answer lest I prejudice the case for the defence. I can nonetheless safely say that I am satisfied that the prosecution has established a prima facie case against the Accused person to warrant him to be placed on his defence. He is therefore placed onto his defence pursuant to **Section 306(2) of the Criminal Procedure Code**.

W. KARANJA

JUDGE

Signed by the above but delivered and dated by the undersigned at Embu this 5th day of April, 2011.

M. WARSAME

JUDGE

In the presence of :-