

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL CASE NO. 48 OF 2008

REPUBLIC.....

.....PROSECUTOR

VERSUS

HENRY MBURU GITATA.....

.....ACCUSED

RULING

The Accused HENRY MBURU GITATA is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code, (*Cap. 63, Laws of Kenya*).

The particulars of the offence are that the accused Henry Mburu Gitata on the 3rd April 2008 at Mau Narok Bondeni Estate in Nakuru District of the Rift Valley Province, jointly with another not before the court murdered Patrick Kariuki Ndegwa.

The Accused pleaded not guilty and the prosecution called six (6) witnesses including the investigating officer and the doctor who carried out the postmortem upon the body of the deceased.

In my view the prosecution have established a *prima facie* case to require the accused to be placed on his defence and therefore find that the accused has a case to answer on the charge of murder of the deceased, Henry Mburu Gitata.

The accused is reminded of his statutory rights under Section 306 of the Criminal Procedure Code (*Cap. 75, Laws of Kenya*) to give evidence on oath and be subjected to cross-examination, or to give an unsworn statement and be not liable to cross-examination, and to call witnesses. The accused may also opt to remain silent.

The accused through his Advocate on record is called upon to indicate which of those rights he intends to exercise.

Dated, delivered and signed at Nakuru this 10th day of December 2010

M. J. ANYARA EMUKULE
JUDGE