



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 7 OF 2012

[FORMERLY NYERI HCCR 10 OF 2011]

REPUBLIC.....PROSECUTOR

VERSUS

PETER MWANGI MUTHONI.....1ST ACCUSED

JOHN KARURI KIAMARI.....2ND ACCUSED

JOHN NJORA IRUNGU.....3RD ACCUSED

WILSON MARI GACHUCHA.....4TH ACCUSED

RULING

1. The accused are charged with *murder* contrary to section 203 as read with section 204 of the **Penal Code**.
2. The particulars are that on the night of 12th and 13th February 2011 at Ngiine village, Gakuyu Sub-Location, Gaturi Location in Murang'a County, they murdered *Stephen Karanja Mwangi*.
3. They all pleaded *not guilty*. The prosecution lined up *six* witnesses. The prosecution's case is founded largely upon *circumstantial* evidence. For instance, PW1, PW2 and PW4 were all attracted to the scene by some screams. They found the body of the deceased lying in a ditch. It had cut wounds on the head, cheeks and one ear was missing.
4. PW1 was the wife of the deceased and he testified that the 1st accused and deceased used to have quarrels and fights dating back to 2009. He had also beaten her, a matter she had reported to the police.
5. There is then the evidence of Chief Inspector Jeremiah Musyoki (PW3) who recovered a number of incriminating pieces of evidence produced as exhibits at the trial.
6. According to the Post Mortem Form (exhibit 1) produced by Dr. Kamotho Watenga (PW5), the death was caused by "*asphyxiation from aspiration of blood with severe haemorrhage*".
7. Both the learned prosecution counsel; and, the learned defence counsel opted *not* to make submissions.
8. Applying the precedents in *Bhatt v Republic* [1957] E.A. 332 and *R v Kipkering arap Koske & another* 16 EACA 135 (1949); and, upon the digest of the evidence of *all the six* witnesses, I find that the Republic has established a *prima facie* case against the accused.
9. Accordingly, under the provisions of section 306 (2) of the **Criminal Procedure Code**, I place the accused on his defence.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 11th day of May 2021.

KANYI KIMONDO

JUDGE

Ruling read in open in the presence of:

Accused persons.

No appearance by counsel for the accused.

Mr. S. Mutinda for the Republic instructed by the Office of the Director of Public Prosecutions

Ms. Dorcas Waichuhi & Ms. Susan Waiganjo, Court Assistants.