



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MURANG'A**  
**CRIMINAL CASE NO. 4 OF 2013**  
**REPUBLIC.....PROSECUTOR**  
**VERSUS**  
**PETER GITAU MBURU.....ACCUSED**

**RULING**

1. The accused is charged with *murder* contrary to section 203 as read with section 204 of the **Penal Code**.
2. The particulars are that on 25<sup>th</sup> April 2013 at Gathungururu village in Murang'a County, he murdered *Bernard Mburu Gitau*.
3. He pleaded *not guilty*. The prosecution called *seven* witnesses.
4. Does the evidence disclose a *prima facie* case sufficient to place the accused on his defence? Learned counsel for the accused filed submissions on 21<sup>st</sup> September 2021. He opines that the accused should be acquitted at this stage. The Republic opted *not* to file submissions.
5. The deceased was the accused's *father*. I have paid close attention to the evidence of PW2, a brother of the accused. He was present when a statement under inquiry was obtained from the accused by the DCIO, Chief Inspector Wilson Mati. There is then the circumstantial evidence from PW1, PW4, PW5, PW6 and PW7.
6. According to the postmortem Report produced by PW7 under section 77 of the **Evidence Act** the deceased died from "*severe head injury.....(skull fractures due to blunt force.....)*".
7. 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 seven* witnesses, I find that the Republic has established a *prima facie* case against the accused.
8. 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 14<sup>TH</sup> DAY OF OCTOBER 2021**

**KANYI KIMONDO**

**JUDGE**

**Ruling read in open court in the presence of:**

The accused.

Ms. A. P. Gakumu for the Republic.

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