

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 28 OF 2012

[FORMERLY NYERI HCCR 56 OF 2009]

REPUBLIC.....PROSECUTOR

VERSUS

JORAM MWAURA KIMANI.....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 15th November 2009 at Nguthuru village, Murang'a South District within Central Province, he murdered *Margaret Wanjiru Irungu*.
3. He pleaded *not guilty*. The prosecution called *six* witnesses. There is *direct* and *circumstantial* evidence surrounding the homicide in this case. I have in particular paid close attention to the evidence of PW1 who claimed that he saw the accused stab the deceased in the chest. The screams by PW1 attracted PW2 and PW3 to the scene. The commotion also caught the attention of PW4 who went to the scene. The *Post Mortem Form* (exhibit 1) produced by PW6 on behalf of the pathologist shows that the cause of death was a *penetrating chest injury* to the left lung and left ventricle.
4. I am well guided by *Bhatt v Republic* [1957] E.A. 332, *R v Kipkering arap Koske & another* 16 EACA 135 (1949). On the summation of the evidence of the *all* the *six* witnesses, I am persuaded that the Republic has established a *prima facie* case against the accused.
5. Accordingly, under the provisions of section 306 (2) of the **Criminal Procedure Code**, I put the accused on his defence.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 16th day of January 2020.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Ms. Gichuru for the Republic.

Mr. Gichuki holding brief for Mr. Kirubi for the accused.

Ms. Dorcas & Ms. Elizabeth, Court Clerks.