



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NYERI**

**CRIMINAL CASE NO. 18 OF 2014**

**REPUBLIC**

**VERSUS**

**SHEM WACHIRA NGUBIRU.....ACCUSED**

**RULING**

1. The accused was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code; he is accused of having murdered Paul Maingi Wachira on the night of the 18/19<sup>th</sup> day of September, 2014 at Chorongi Village within Nyeri County;
2. At the hearing hereof the accused was represented by Learned Counsel Mr.Kingori whereas Mrs. Gicheha was the Prosecuting Counsel for the State; the prosecution called a total of five (5) witnesses in support of its case; at the close of the prosecution case counsel for the accused was invited to make submissions as to whether the prosecution had made out a case to require the accused person to be called upon to defend himself; counsel for the accused made oral submissions whereas the prosecution relied on the evidence on the record;
3. Counsel for the accused submitted that the evidence adduced by the prosecution witnesses did not satisfy the conditions for circumstantial evidence and that even if the accused were to remain silent the available evidence could not form the basis for a safe conviction; the case of **Sawe vs Republic (2003) eKLR**; was cited in support of the submissions made;
4. After hearing the submissions made by counsel and upon reading the evidence of **PW2** on the identity of the assailant this court is satisfied that the prosecution has made out a prima facie case against the accused; this court finds that he has a case to answer that warrants him to be placed on his defence; his rights and options will be put to him before he presents his defence;

Orders Accordingly.

**Dated, Signed and Delivered at Nyeri this 13<sup>th</sup> day of February, 2020.**

**HON.A.MSHILA**

**JUDGE**