REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAKAMEGA

CRIMINAL CASE NO. 31 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

HUMPREY MADEDE KAMAYI.....ACCUSED

RULING

1. The accused is charged with murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that on the 1st May, 2015 at Shiswa Sub-location, Muranda Location in Kakamega East District within Kakamega County he murdered Lawrence Ashiomo Kamayi (herein referred to as the deceased).

2. The case for the prosecution was that the accused and the deceased were living in the same house. That Enlieta Litangi PW3 was their step-mother. Her house was a short distance away from the house of the deceased. That on the night of 1st and 2nd May, 2015 at about 8 p.m. PW3 was at her house when she heard the deceased screaming. She came out of her house and found the accused beating the deceased with a jembe stick outside the deceased's house. That on seeing her the accused threatened to beat her. She went back to her house. On the following morning the deceased was found dead outside his house. Policemen were called. They collected the body and took it to Kakamega County Hospital mortuary. A postmortem was conducted on the body by Dr. Muchana PW4 who found it with multiple injuries on the limbs, burns and a linear fracture on the midline of the head with bleeding into the left brain covering. He formed the opinion that the cause of death was due to multiple injuries following assault. The accused was thereafter arrested and charged with the offence. During the hearing Dr. Muchana produced the post mortem report as exhibit, P.Ex 1.

3. The court is required at this stage to determine whether there is a prima facie case established against the accused. In the case of **Ramanlal Trambaklal Bhatt –Vs- Republic (1957) EA 332** it was held that a prima facie case is:-

> ***"one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence."***

4. I have considered the evidence adduced before the court. I am satisfied that a prima facie case has been made out against the accused. The accused thereby has a case to answer and is accordingly placed to his defence.

Delivered, dated and signed in open court at Kakamega this 14th day of May, 2020.

J. N. NJAGI

JUDGE

In the presence of:

No appearance for Accused

Mutua for State/Prosecutor

Accused – present through video link to Kakamega GK Prison

Court Assistant - Polycap

14 days right of appeal.