



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MURANG'A

CRIMINAL CASE NO. 2 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

MARY WANJIKU KAMANDE.....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 24th December 2014 at Nguthuru village, Nguthuru Location within Murang'a County, she murdered *Sherlene Wambui Wanjiku*.
3. She pleaded *not guilty*. The prosecution lined up *three* witnesses.
4. The deceased was a daughter of the accused. The deceased was a *disabled* and *vulnerable* child.
5. The prosecution's case is largely built on *circumstantial* evidence. For instance, PW2 testified that the accused had previously exposed the child to grave danger by depositing her in the middle of a road. But a vehicle avoided running over the deceased.
6. On the material date, PW1 left the deceased at home with the accused. She was summoned later to the house and found the lifeless body of the deceased on a seat. The accused *denied* killing the deceased. The post mortem form (exhibit 1) indicates that the cause of death was *chest injuries due to assault*.
7. Applying the test in ***Bhatt v Republic*** [1957] E.A. 332 and ***R v Kipkering arap Koske & another*** 16 EACA 135 (1949) I find that the Republic has established a *prima facie* case.
8. Accordingly, under the provisions of section 306 (2) of the **Criminal Procedure Code**, I place the accused on her defence.

It is so ordered.

DATED, SIGNED and DELIVERED at MURANG'A this 23rd day of July 2019.

KANYI KIMONDO

JUDGE

Ruling read in open court in the presence of-

Accused.

Mr. Mutinda for the Republic.

Mr. J. N. Mbuthia for the accused.

Ms. Dorcas and Ms. Elizabeth, Court Clerks.