



REPUBLIC OF KENYA

IN THE HIGH COURT

AT NAKURU

CRIMINAL MURDER CASE NO. 52 OF 2015

REPUBLIC.....PROSECUTOR

-VERSUS-

BENARD KIBET RONO.....ACCUSED

RULING

The accused was charged with the offence of murder of one Anne Cherotich deceased on the night of the 13th July 2015 contrary to **Section 203 as read with Section 204 of the Penal Code**. He pleaded not guilty.

The prosecution called ten witnesses to prove that it has established a *prima facie* case to warrant the accused being placed on his defence, and it so submitted as required under **Section 306(1) of the Criminal Procedure Code, Cap 75 Laws of Kenya**.

The accused filed and highlighted very detailed submissions to persuade this court that no *prima facie* case has been established, and urge for acquittal, submitting that the investigative agencies filed to carry out credible investigations to establish the identity of the perpetrator of the crime as it was testified that there were two persons in the neighbourhood by the same name "Ben" who it was testified by PW1 and PW8 was the person who murdered the deceased.

I comment the accused's advocate Mr. Nanda for the very well analysed prosecution witnesses evidence.

However, the witnesses and especially PW1, a minor and child to the deceased testified to have known and was able to identify the accused as the person who went into their house on that fateful night and pulled and pushed the deceased out from her bed and using a knife that he picked from her house knifed the deceased.

PW2 a neighbour who answered to the deceased's children's cry and screams went to answer the call and heard the deceased shout and say that "Benard has killed me."

In its totality, the accused, bearing the name stated by the deceased before she succumbed to the knife injuries bears the name Bernard.

Evidence was adduced of there being another person by the same first name as that of the accused.

Upon investigations by the investigating officer, and with assistance of the neighbours, the accused was arrested and charged for the murder under **Section 306(1) and (2) of the Criminal Procedure Code. Criminal Case No. 18 of 2015 R –vs- Alex Mwanzia Mutangili (2017) e KLR**.

Upon analysis of the entire prosecution evidence I am satisfied that the accused is placed at the scene of the crime. It is upon him, on his defence to testify of his innocence, that he is not the Bernard who was referred to and identified by the minor PW1 as the assailant.

The upshot is that the accused is found to have a case to answer. He shall be called upon to defend himself in accordance with the law.

It is so ordered.

Dated, delivered and signed at Nakuru this 3rd Day of July 2019.

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J.N. MULWA

JUDGE