

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAKURU

CRIMINAL MURDER CASE NO. 52 OF 2016

REPUBLIC.....PROSECUTOR

-VERSUS-

JOSEPH GITAU MUTURA.....ACCUSED

RULING

On Section 306 of the Criminal Procedure Code

The prosecution called six(6) witnesses to prove that it has a *prima facie* case against the accused.

I have examined and considered the evidence. PW1 niece to the deceased testified that on the fateful night the two, the accused and the deceased were fighting when the deceased was stabbed by the accused who was her husband.

PW2 a minor daughter of the couple testified that they were sleeping in their house when the accused stabbed her mother the deceased at the stomach, that she saw him beating the deceased, that she asked accused to stop beating her but he continued and stabbed her, then neighbours came over and took her way to hospital.

The accused did not cross-examine this witness. PW4 Gabriel is a neighbor of the couple. The accused called him at about 9.00p.m. and requested him to assist him to take his wife, the deceased to hospital, that they took a motor bike to the hospital where, as she was being treated, he saw accused rundown the stairs and run way after he was told that the wife had died.

The investigating officer's evidence was as he investigated the crime on the 3rd day the accused presented himself to the police station and stated that his wife the deceased stabbed herself after a quarrel. He was arrested and charged for the offence.

The evidence above no doubt places the accused person at the centre of the crime as well as the scene. His own daughter PW2 and niece PW1 saw him and were present when the two were quarrelling saw the accused pick a knife and stab the deceased, after which later he presented himself to the police.

For those reasons I find that the prosecution has established a *prima facie* case against the accused requiring him to defend himself against the police.

For those reasons I find that the prosecution has established a *prima facie* case against the accused requiring him to defend himself against accusations.

He shall therefore be called upon to defend himself.

Dated, delivered and signed at Nakuru this 1st Day of July 2019.

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J.N. MULWA

JUDGE