

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

CRIMINAL MURDER NO. 3 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

GEOFFREY KINYUA WANGECHI.....ACCUSED

RULING

1. The person Geoffrey Kinyua Wangechi is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. It is alleged that on 13/1/2015 at Thumaita village in Kirinyaga West District within Kirinyaga County he unlawfully murdered Michael Murimi Wangechi.

2. The accused person denied the charge. The prosecution called a total of Thirteen(13) witnesses in an attempt to prove the charge against the accused person. This is a ruling as to whether the accused person has a case to answer.

3. I have considered the evidence adduced by the Thirteen witnesses. All what I am supposed to determined at this stage is whether the prosecution has established a prima facie case. A prima facie case has been defined as one which a reasonable tribunal properly addressing its mind to the law and evidence, could convict if no explanation is offered by the defence. This was held in the case of **Ramanlal Trambaklal Bhatt –v- Republic (1957) E.A 332.**

4. The evidence tendered by the prosecution meets the threshold in the case of **Bhatt –v- R** which I have cited above. At this stage I need not give reasons for this finding as I am yet to hear the side of the story by the accused and giving reasons would tend to suggest that I have made up my mind before hearing the defence of accused. That would also prejudice the accused in his defence. It is sufficient to inform the accused has a case to answer and give him a chance to be heard. I rule that based on the evidence tendered and considering the offence charged the accused has a case to answer.

5. The accused will proceed as provided under **Section 306(2) of the Criminal Procedure Code.** He is free to address the court personally or through his Advocate and –

a) Chose to give a sworn or unsworn defence.

b) He is at liberty to call witnesses.

c) He may also chose to remain silent as provided under **Article 50 (2)(1) of the Constitution.**

6. I so order.

Dated at Kerugoya this 14th day of November 2019.

L. W. GITARI

JUDGE