

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

CRIMINAL CASE NO. 6 OF 2016

CHARLES KARANJA WANJIRU.....ACCUSED

VERSUS

REPUBLIC.....PROSECUTOR

RULING ON NO CASE TO ANSWER

1. The Accused Person, Charles Karanja Wanjiru (“Accused Person”) is charged with murder contrary to section 203 of the Penal Code as read together with section 204 of the Penal Code. He is accused of murdering Michael Mwangi Njoroge (“Deceased”) on 19/07/2014 at New Perennial Bar within Rungiri area within Kiambu County.

2. The Prosecution called eight witnesses to prove its case. The narrative emerging from the Prosecution witnesses is that both the Deceased and the Accused Person were drinking at the New Perennial Bar on the material day when the Accused Person violently assailed the Deceased causing him to fall on the ground and thereby fatally hitting the back of his head. PW1, a bar waiter at the Bar, and PW4, a patron at the Bar who was known to both the Deceased and the Accused Person were at the Bar when the incident happened. They testified that the Accused Person and the Deceased were the only two patrons in the secluded section of the Bar when PW4 heard a noise that attracted her to that section only to find the Deceased lying on the ground bleeding profusely. She then went to call PW1.

3. PW2, PW3 and PW5 were the first responders who rushed to the Bar when they received information that the Deceased had been injured. They arranged to take him to the hospital where he was pronounced dead.

4. The Prosecution’s case was rounded off by expert evidence by the Government Chemist, Scenes of Crime Expert and the Pathologist. The Government Chemist’s report showed that the shirt and pair of trousers which the Accused Person had dressed in that day had blood stains of the Deceased’s blood. The Pathologist concluded that the cause of death was blunt trauma to the back of the head; while the Scenes of Crimes Expert produced photographs of the scene.

5. At this stage in the proceedings, the Court is required to make a finding whether the Prosecution has presented sufficient evidence to require the Accused Person to be put on his defence or whether the case should be stopped at this point. The test to be utilized is the famous one stated in *Bhatt –vs- R [1957] EA 332*: whether, as a matter of law – without taking any conclusive view of the credibility and probative value of the evidence presented – the Prosecution has adduced *reasonable sufficient evidence* of the matter in respect of which it has the burden of proof. Reasonable sufficient evidence is one which a reasonable tribunal could convict.

6. In my view, the Prosecution has placed enough material to make this a fit case to require the Accused Person to respond to the evidence adduced.

7. Consequently, the Court finds that the Accused Person has a case to answer and puts him on his defence. The case shall be set down for defence hearing.

Dated and delivered at Kiambu this 7th day of June, 2018.

.....

JOEL NGUGI

JUDGE