

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KIAMBU

CRIMINAL NO 73 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

JOHN NG'ANG'A NJERI.....ACCUSED PERSON

RULING ON NO CASE TO ANSWER

1. The Accused Person is charged with the offence of murder contrary to section 203 as read together with section 204 of the Penal Code. It is alleged that on the night of 24/02/2013 at Mwemuto Village in Gatundu South within Kiambu County, jointly with another not before the Court, the Accused Person unlawfully, and with pre-meditation killed Joseph Njau Njoroge.
2. The Accused Person pleaded not guilty and the case proceeded to trial. The Prosecution called five witnesses before closing its case. Neither the Defence nor the Prosecution made submissions on No Case to Answer Ruling.
3. At this stage in the proceedings, the task of the Court is 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.
4. In my view, after reviewing the evidence presented by the five Prosecution witnesses, I am persuaded that the Prosecution has placed enough material to make this a fit case to require the Accused Person to respond to the evidence adduced.
5. **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.**

Delivered at Kiambu this 22nd day of November, 2018.

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JOEL NGUGI

JUDGE